Supreme Court, U.S.
FILED
061295 JAN 19 2007
OFFICE OF THE CLERK

No. _____

In The

Supreme Court of the United States

CHARLIE H. DAVIS and
LEYDA E. CHEW,

Petitioners,

v.

HON. GEORGE WINSLOW JR., et al.,

Respondents.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

CHARLIE H. DAVIS
LEYDA E. CHEW
1934 S. Old, Apopka Rd.
Apopka, Florida 32703
321-696-1091

QUESTIONS PRESENTED

1. Whether the right to equality before the law means that district court application of federal law must not be discriminatory, and that federal judges and officials must not act in a non-discriminatory fashion in application of federal law when minorities file factual evidence in support of their claims alleging non-minorities' deprivation and violation of minority petitioners' civil and constitutional rights.

2. Whether magistrates in lower state and federal courts situated in the "great state of Florida" are more likely to graciously extend guaranteed constitutional rights to a non-minority "Neo-Nazi" hate group as opposed to graciously extending guaranteed constitutional rights to minority petitioners' filing conclusive evidence disclosing proof of deprivation of their civil and constitutional rights.

3. Whether the lower court of appeals, district and state court's omission of factual evidence filed earlier by minority petitioners equal an even worse deprivation and violation of minority petitioners' civil and guaranteed constitutional rights.

PARTIES TO THE PROCEEDINGS

Petitioners Charlie H. Davis and Leyda E. Chew have no parent corporation and no publicly held company owns 10% or more of its stock Rule 29.6. Parties to the proceedings are:

Circuit Judges, U.S. Court of Appeals

Hon. Susan H. Black

Hon. Rosemary Barkett

Hon. Charles R. Wilson

Trial Judges, U.S. District Court

Hon. John Antoon II, United States District Judge

Hon. David A. Baker, United States Magistrate Judge

Hon. Anne C. Conway, United States District Judge

Attorneys

Yvette Acosta MacMillian

Armistead Ellis W., Jr.

Phillip D. Havens

Laura E. Roth

Parties and Affiliates

Charlie H. Davis

Leyda E. Chew

Hon. George, Winslow Jr.

Kathy A. Jimenez

Diane M. Matousek

Donna S. Zmijewski

PARTIES TO THE PROCEEDINGS – Continued

Parties and Affiliates Shielded By Lower District Court Magistrates And Were Not Required To Provide An Answer Pursuant To Rule 12(b), Federal R. Civ. P.

Attorney: Barbara Fancher Jones

Attorney: Richard E. Brown

Hon. Richard S. Graham

Hon. Elliott Sroves

Hon. John Tanner

Eric K. Neitzke

Harry Sperl

John Bolton

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PETITION FOR WRIT OF CERTIORARI

CHARLIE H. DAVIS and LEYDA E. CHEW, Petitioners, under the appropriate rules of this Court, respectfully pray that a writ of certiorari be issued to review the judgment of the lower United States Court of Appeals for the Eleventh Circuit in the above-entitled proceeding.

OPINIONS BELOW

Pursuant to Supreme Court Rule 14.1(d), petitioners seek review of an unpublished opinion (App. 1a-3a) filed in the lower U.S. Court of Appeals for the Eleventh Circuit (USCA No. 05-16599-DD) on July 20, 2006 affirming the lower district court's earlier order[s] (App. 6a-10a), and report and recommendation (App. 11a-25a) rendered after minority petitioners were denied a fair trial when district court magistrates below abused their discretion by excluding evidence from the record (exhibits 1"A"-65"A") which minority petitioners Davis and Chew timely filed and incorporated in their operative complaint and motions to dismiss filed in the lower district court. Conversely, the lower district court magistrates expeditiously granted various motions to dismiss which non-minority respondents herein repeatedly filed in the lower district court contrary to "Federal Rule of Civil Procedure 12(b)" and the lower district court's own mandatory "order on interested persons and corporate disclosure" (App. 26a-29a), which strictly prohibit said respondents from filing or serving a "motion, memorandum, response, or other paper-including emergency motion" prior to filing and serving said disclosure statement.

The similarly affirmed, unpublished opinion of the United States District Court for the Middle District of Florida, which dismissed petitioners' claims with prejudice in lower USDC FL., 6:05-cv-416-Orl-28DAB prior to appeal, was filed on November 1, 2005 (App. 6a-7a).

In what is essentially a worse denial and deprivation of minority petitioners' civil and constitutional rights, on August 25, 2006 the lower U.S. Court of Appeals for the Eleventh Circuit entered an order denying petitioners' petition for rehearing (App. 56a-70a) its decision of July 20, 2006.

Notwithstanding the above, on November 1, 2006, the Honorable Chief Justice Thomas granted petitioners' application for extension of time within which to file this petition for writ of certiorari until January 22, 2007 (App. 54a-55a).

This is a civil rights case (instigated by respondents licensed by the Florida bar of the state of Florida insinuated in a symbiotic relationship with respondents of the state of Florida who acted under color of state law in their individual capacity at the time the repeated deprivation and violation of petitioners' civil and constitutional rights occurred) that began to take life nearly two years ago (App. 69a) after minority petitioners Davis and Chew were repeatedly summoned to appear in multiple state court actions manufactured and filed by said respondents of the state of Florida named herein and within an earlier lawsuit filed by petitioner Chew (App. 69a).

Similarly, in addition to the circumvention and repeated violation of earlier court orders which strictly prohibited such action by respondents (App. 46a-47a), (App. 37a-39a), (49a-51a), (40a-45a) both petitioners were repeatedly ordered to appear at multiple criminal court

proceedings manufactured by said respondents of the state of Florida who thereafter conspired to inextricably intertwine petitioners Davis and Chew in their manufactured state court actions as defendants. Subsequently, on June 23, 2005 petitioners Davis and Chew merged their complaint incorporating 42 U.S.C. § 1983 as a cause of action prior to filing the operative complaint in the lower district court as mandated by this U.S. Supreme Court, on April 7, 2005 (App. 69a-93a, case no. 6:04cv194-Orl-31JGG).

Evidently, both petitioners are the victims of multiple undisclosed criminal state court actions which said respondents of the state of Florida not only manufactured (App. 30a-33a), (App. 106a-107a), (App. 35a-36a) (App. 97a) but vigorously pursued in the lower Seventh and Ninth Judicial Circuit courts situated in Volusia and Orange County Florida. Unequivocally, both petitioners were repeatedly subjected to summons manufactured by respondents (App. 106a-107a and App. 35a-36a), manufactured court hearings (App. 30a-33a), (App. 94a) a manufactured injunction (App. 98a-101a) (App. 102a-103a) and arrest warrants which ultimately culminated in the repeated false arrest and false imprisonment of petitioners Davis and Chew (App. 108a), (App. 95a-96a) as well as the repeated illegal suspension of petitioner Davis' driver's license (App. 104a-105a) before and after a judicial determination concluded child support overpayments in excess of thousands of dollars was in fact owed to petitioner Davis (App. 37a-39a) contrary to the existing delinquency and arrearage which respondents herein continuously manufactured and reported earlier (App. 30a-33a).

In what is essentially a conspiracy inartfully contrived, said respondents of the Florida bar of the state of Florida even forcibly suggested that petitioner Davis

involuntarily provide respondents of the state of Florida his "DNA" in stark contrast to their repeated circumvention of favorable court order[s] which Davis and Chew indisputably received from previous Circuit Court Judges during the final disposition of court hearings held earlier in the Family Law Division of the Seventh and Ninth Judicial Circuit courts situated in Daytona and Orlando Florida.

Petitioners maintain these wrongful actions were repeatedly committed in court rooms governed by said respondents of the state of Florida acting under color of state law as they presided over cases manufactured and filed by said respondents of the Florida bar of the state of Florida named herein. Indisputably, said respondents' unlawful actions not only violated and denied petitioners Davis and Chew their rights to receive equal access and treatment by the courts, they repeatedly violated petitioners' civil and guaranteed constitutional rights.

Similarly, said violations of petitioners' civil and constitutional rights resuscitated in the lower U.S. Court of Appeals for the Eleventh Circuit and the lower district court after the filing of petitioners' operative complaint in the lower U.S. District Court for the Middle District of Florida on June 23, 2005. Similarly, in circumvention of federal law and the district court's own orders, the Honorable Judge John Antoon II of the lower U.S. District Court, Middle District of Florida subsequently affirmed among other things that the district court was "without subject-matter jurisdiction to entertain such claims while concluding that petitioners' claims were bared by the *Rooker-Feldman* doctrine" prior to dismissing with prejudice petitioners' complaint on November 1, 2005 and indicating that jurisdiction may lie with the court of appeals or the

U.S. Supreme Court. In addition to the lower district court's refusal of immediate "certification of readiness of appeal record," petitioners thereafter were compelled to file their appeal under duress with the U.S. Court of Appeals for the Eleventh Circuit on December 1, 2005.

Unfortunately, rather than performing a limited "corrective" function by subjecting the lower district court's judgment to some review for error and thus reducing the risk of injustice, the lower U.S. Court of Appeals refused to review conclusive evidence filed by minority petitioners and affirmed the district court's decision and report and recommendation for lack of jurisdiction basing such a decision on dictates of the "*Rooker-Feldman* doctrine". Finally, on August 6, 2006, Petitioners filed with the Eleventh Circuit Court of Appeals a Petition For Rehearing of the entry of judgment dated July 20, 2006 prior to the U.S. Court of Appeals similarly denying minority petitioners' petition for rehearing on August 25, 2006.

JURISDICTION

Pursuant to Supreme Court Rule 14(1)(e)(i), the date the judgment or order sought to be reviewed was entered on July 20, 2006 by the United States Court of Appeals for the Eleventh Circuit (App. 1a-3a).

Furthermore, pursuant to Supreme Court Rule 14(1)(e)(ii), a Petition for Rehearing (App. 56a-70a) was denied by the lower U.S. Court of Appeals for the Eleventh Circuit on August 25, 2006 (App. 52a-53a).

Moreover, according to Supreme Court Rule 14(1)(e)(iv), the statutory provisions believed to confer on

this Court jurisdiction to review on a writ of certiorari the judgment or order in question is 28 U.S.C. § 1254(1).

The United States Court of Appeals for the Eleventh Circuit had jurisdiction based on 28 U.S.C. § 1291.

CITATIONS OF RELEVANT PROVISIONS, STATUTES, AND REGULATIONS

I. The relevant constitutional provisions involved in the case, pursuant to Supreme Court Rule 14(1)(f), include:

The United States Constitution 42 U.S.C. § 1983

The First Amendment to the United States Constitution.

The Fifth Amendment to the United States Constitution.

The Eleventh Amendment to the United States Constitution.

The United States Constitution, Title IV.

The United States Constitution, Title 42(2), § 1985

II. The relevant statues involved in the case, pursuant to Supreme Court Rule 14(1)(f), include:

28 U.S.C. § 1343(a)(1)(2)(3)

28 U.S.C. § 1331

STATEMENT OF THE CASE

This is a civil rights case which raises novel issues concerning the lower court magistrates' abuse of judicial discretion not limited to dishonoring its own orders rendered to minority petitioners Davis and Chew and the lower district court magistrates' application of federal rules of civil procedure (federal law) and the constitutional provisions of 42 U.S.C. § 1983 which strictly prohibits respondents, while acting under color of state law, within the jurisdiction thereof from the deprivation of any rights, privileges, or immunities secured by the constitution.

Petitioners are two minorities residing in the state of Florida at the time their operative complaint was filed in the lower U.S. District Court for the Middle District of Florida on June 23, 2005 (App. 71a-93a), (Consistent with the context and flow of petitioners Davis and Chew's 42 U.S.C. § 1983 operative complaint filed in lower district court on June 23, 2005, minority petitioners (on February 25, 2006) personally witnessed more than 300 officials of the state of Florida graciously extend guaranteed constitutional rights to a "Neo Nazi" hate group in support of their rally escorted by more than 300 law enforcement officials of the state of Florida as the march emanated from the steps of the Orlando Police Department through an adjacent minority neighborhood prior to concluding on the steps of the lower district court during the course of petitioners' action filed in lower district court). Conversely, the lower district court adamantly refused to extend guaranteed constitutional rights to minority petitioners Davis and Chew as they sought redress for civil and constitutional right violations committed by said respondents of the state of Florida.

REASON FOR GRANTING THE WRIT

The decision of the Court of Appeals for the Eleventh Circuit below is erroneous and the issues that it addresses are of great importance because they directly and profoundly impact the ability of minority petitioners seeking redress for constitutional vio ations.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

CHARLIE H. DAVIS
LEYDA E. CHEW
1934 S. Old, Apopka Rd.
Apopka, Florida 32703
321-696-1091

No. _____

In The
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CHARLIE H. DAVIS
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v.

HON. GEORGE WINSLOW JR., et al.,

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On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit

APPENDIX

190 Fed.Appx. 807

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 05-16599
Non-Argument Calendar

D.C. Docket No. 05-00416-CV-ORL-28-DAB

CHARLIE H. DAVIS
LEYDA E. CHEW,
both individually and on behalf of
Lequindra Keion Davis (19) and
Chalise Davis (20),

Plaintiffs-Appellants,

versus

HON. GEORGE WINSLOW, JR.,
RICHARD S. GRAHAM,
BARBARA FANCHER JONES, Attorney,
KATHY A. JIMENEZ, Attorney,
ERIC K. NEITZKE, Attorney, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida

(Filed July 20, 2006)

Before BLACK, BARKETT and WILSON, Circuit Judges.

PER CURIAM:

Charlie Davis and Leyda Chew, proceeding pro se, appeal the district court's dismissal of their 42 U.S.C. § 1983 complaint. Davis and Chew alleged that the actions of which they complain were taken by the state-actor defendants in their individual capacities. Davis and Chew asserted a variety of contractual, constitutional, and civil rights statutory causes of action, including 42 U.S.C. § 1983 and asked for money damages, custody of Chew's son, reinstatement of Davis's driver's license, annulment of Chew's divorce agreement with Harry Sperl, punitive damages, attorney's fees, and unspecified injunctive relief. Davis and Chew made it clear in their arguments to the district court that they are challenging the judgments against them in state court.

The *Rooker-Feldman* doctrine deprived the district court of subject-matter jurisdiction to hear Davis and Chew's claims. The *Rooker-Feldman* doctrine establishes that federal courts, other than the Supreme Court, do not have subject-matter jurisdiction over actions that effectively seek to appeal state court judgments. *Amos v. Glynn County Bd. of Tax Assessors,* 347 F.3d 1249, 1265 n.11 (11th Cir. 2003); *D.C. Court of Appeals v. Feldman,* 460 U.S. 462, 482, 103 S. Ct. 1303, 1315, 75 L. Ed. 2d 206 (1983); *Rooker v. Fidelity Trust Co.,* 263 U.S. 413, 415-16, 44 S. Ct. 149, 150, 68 L. Ed. 362 (1923). Davis and Chew allege nothing to indicate that they were in any way deprived of the opportunity to raise their issues in the state court proceedings. To the extent that Davis and Chew raise issues that extend beyond a dissatisfaction with the outcome of their state court cases, those issues

were decided by the state courts or inextricably bound up in those decisions.

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 05-16599

District Court Docket No.
05-00416-CV-ORL-28-DAB

CHARLIE H. DAVIS
LEYDA E. CHEW,
both individually and on behalf of
Lequindra Keion Davis (19) and
Chalise Davis (20),

Plaintiffs-Appellants,

versus

HON. GEORGE WINSLOW, JR.,
RICHARD S. GRAHAM,
BARBARA FANCHER JONES, Attorney,
KATHY A. JIMENEZ, Attorney,
ERIK K. NEITZKE, Attorney, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida

JUDGMENT

(Filed Jul. 20, 2006)

It is hereby ordered, adjudged, and decreed that the attached opinion included herein by reference, is entered as the judgment of this Court.

Entered: July 20, 2006
For the Court: Thomas K. Kahn, Clerk
By: Harper, Toni

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CHARLIE H. DAVIS, INDIVIDUALLY AND ON BEHALF OF LEQUINDRA KEION DAVIS AND KAITRONDRA CHALISE DAVIS,

Plaintiffs,

-vs-

Case No. 6:05-cv-416-Orl-28DAB

HON. GEORGE WINSLOW, JR., HON RICHARD S. GRAHAM, BARBARA FANCHER JONES, KATHY A. JIMENEZ, ERIC K. NEITZKE, DONNA S. ZMIJEWSKI, HARRY SPERL,

Defendants.

ORDER

(Filed Nov. 1, 2005)

On October 4, 2005, the Court entered an Order (Doc. 147) adopting the Magistrate Judge's Report and Recommendation (Doc. 137), ruling on pending motions, and ordering Plaintiffs to show cause within ten days why the remaining claims should not be dismissed. On October 17, 2005, Plaintiffs' filed a "Show Cause Motion for Case File Review incorporating the 13 Page October 11, 2005 Certified Civil Docket No. 1 Thru 148." (Doc. 149). The first paragraph of this Motion states that it is filed pursuant to the Court's Order (Doc. 147). Plaintiffs' Motion is non-responsive to the Court's Order. Plaintiffs fail to set forth a legal basis

as to why the remaining claims should not be dismissed. Instead, Plaintiffs' "request a review of the case file based on the its non-integrity, non-chronology and erroneous document entries by the clerk of the court including the erroneous and tainted transcript of the hearing held August 29, 2005 in front of Hon. David A. Baker." Accordingly, Plaintiffs' Motion for Case File Review is **DENIED**, and all remaining claims pending in this case are **DISMISSED** with prejudice. The Clerk of Court is directed to close this file.

DONE and **ORDERED** in Chambers, Orlando, Florida this 1st day of November, 2005.

/s/ John Antoon II
JOHN ANTOON II
United States District Judge

Copies furnished to:
Counsel of Record
Unrepresented Party

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CHARLIE H. DAVIS, INDIVIDUALLY AND ON BEHALF OF LEQUINDRA KEION DAVIS AND KAITRONDRA CHALISE DAVIS,

Plaintiffs,

-vs-

Case No. 6:05-cv-416-Orl-28DAB

HON. GEORGE WINSLOW, JR., HON RICHARD S. GRAHAM, BARBARA FANCHER JONES, KATHY A. JIMENEZ, ERIC K. NEITZKE, DONNA S. ZMIJEWSKI, HARRY SPERL,

Defendants.

ORDER

(Filed Oct. 4, 2005)

This case is before the Court on the Report and Recommendation (Doc. 137) submitted by the United States Magistrate Judge.

After an independent *de novo* review of the record in this matter, and after consideration of Plaintiffs Response (Doc. 139), the Court agrees entirely with the findings of fact and conclusions of law in the Report and Recommendation. Therefore, it is **ORDERED** as follows:

1. That the Report and Recommendation filed September 1, 2005 (Doc. 137) is **ADOPTED** and **CONFIRMED** and made a part of this Order.

2. The Motion to Dismiss Defendant Matousek (Doc. 81) is **GRANTED**.

3. The Motion to Dismiss Defendants Winslow, Graham, Jimenez, and Zmijewski (Doc. 95) is **GRANTED**.

4. The Motion To Dismiss Defendant Tanner (Doc. 117) is **GRANTED**.

5. The Motion to Strike (81) Motion to Dismiss (Doc. 110) is **DENIED**.

6. The Motion to Strike (95) Motion to Dismiss Graham (121) is **DENIED**.

7. The Motion to Strike (95) Motion to Dismiss Winslow (Doc. 122) is **DENIED**.

8. The Motion to Strike (95) Motion to Dismiss Jimenez (Doc. 124) is **DENIED**.

9. The Motion to Strike (Doc. 95) Motion to Dismiss Zmijewski (Doc. 125) is **DENIED**.

10. The Motion for Default Judgment Against Richard E. Brown (Doc. 99) is **DENIED** with prejudice.

11. The Motion for Default Judgment Against Harry Sperl (Doc. 100) is **DENIED**.

12. Plaintiffs' Motion To Dismiss John Tanner (Doc. 119) is **DENIED**.

13. Plaintiff's Motion to Dismiss John Bolton (Doc. 120) is **DENIED**.

14. Plaintiff's Motion to Dismiss Sroves (Doc. 127) is **DENIED**.

15. Motion for Transcript of Hearing (Doc. 136) is **DENIED as moot**.

16. Motion for Preliminary Injunction (Doc. 116) is **DENIED as moot**.

The Court further **ORDERS** the Plaintiffs to show cause within (10) days from the date of this Order as to why the remaining claims should not be dismissed.

DONE and **ORDERED** in Chambers, Orlando, Florida this 4 day of October 2005.

/s/ John Antoon II
JOHN ANTOON II
United States District Judge

Copies furnished to:

United States Magistrate Judge
Counsel of Record
Unrepresented Party

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CHARLIE H. DAVIS, INDIVIDUALLY AND ON BEHALF OF LEQUINDRA KEION DAVIS AND KAITRONDRA CHALISE DAVIS,

Plaintiffs,

-vs-

Case No. 6:05-cv-416-Orl-28DAB

HON. GEORGE WINSLOW, JR., HON RICHARD S. GRAHAM, BARBARA FANCHER JONES, KATHY A. JIMENEZ, ERIC K. NEITZKE, DONNA S. ZMIJEWSKI, HARRY SPERL,

Defendants.

REPORT AND RECOMMENDATION AND ORDER

(Filed Sept. 1, 2005)

TO THE UNITED STATES DISTRICT COURT

This cause came on for consideration with oral argument[1] on the following motions filed herein:

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[1] The Court reviewed these pending motions, and other matters, at a pretrial conference held on August 29, 2005.

MOTION:	**MOTION TO DISMISS [MATOUSEK] (Doc. No. 81)**
FILED:	**June 23, 2005**
THEREON it is **RECOMMENDED** that the motion be **GRANTED**.	
MOTION:	**MOTION TO DISMISS [WINSLOW, GRAHAM, JIMENEZ, ZMIJEWSKI] (Doc. No. 95)**
FILED:	**July 19, 2005**
THEREON it is **RECOMMENDED** that the motion be **GRANTED**.	
MOTION:	**MOTION TO DISMISS [JOHN TANNER] (Doc. No. 117)**
FILED:	**August 4, 2005**
THEREON it is **RECOMMENDED** that the motion be **GRANTED**.	
MOTION:	**MOTION TO STRIKE [81] MOTION TO DISMISS (Doc. No. 110)**
FILED:	**August 1, 2005**
THEREON it is **ORDERED** that the motion is **DENIED**. Plaintiff raises no grounds sufficient to strike the motion. The Court will treat the paper as a response to the motion to dismiss.	

BEST AVAILABLE COPY

MOTION: **MOTION TO STRIKE [95] MOTION TO DISMISS (GRAHAM) (Doc. No. 121)**

FILED: **August 8, 2005**

THEREON it is **ORDERED** that the motion is **DENIED.** Plaintiff raises no grounds sufficient to strike the motion. The Court will treat the paper as a response to the motion to dismiss.

MOTION: **MOTION TO STRIKE [95] MOTION TO DISMISS ((WINSLOW) (Doc. No. 122)**

FILED: **August 8, 2005**

THEREON it is **ORDERED** that the motion is **DENIED.** Plaintiff raises no grounds sufficient to strike the motion. The Court will treat the paper as a response to the motion to dismiss.

MOTION: **MOTION TO STRIKE [95] MOTION TO DISMISS (JIMENEZ) (Doc. No. 124)**

FILED: **August 10, 2005**

THEREON it is **ORDERED** that the motion is **DENIED.** Plaintiff raises no grounds sufficient to strike the motion. The Court will treat the paper as a response to the motion to dismiss.

MOTION:	**MOTION TO STRIKE [95] MOTION TO DISMISS (ZMIJEWSKI) (Doc. No. 125)**
FILED:	**August 10, 2005**

THEREON it is **ORDERED** that the motion is **DENIED**. Plaintiff raises no grounds sufficient to strike the motion. The Court will treat the paper as a response to the motion to dismiss.

A trial court, in ruling on a motion to dismiss, is required to view the complaint in the light most favorable to the plaintiff. *Scheuer v. Rhodes,* 416 U.S. 232 (1974). "The issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims." *Id.,* 416 U.S. at 236; *Little v. Miami,* 805 F.2d 962, 965 (11th Cir. 1986). A count may not be dismissed for failure to state a claim unless it appears beyond a doubt that the plaintiff can prove no set of facts in support of a claim for relief. *See Conley v. Gibson,* 355 U.S. 41, 45-46 (1957). Moreover, a court should grant a motion to dismiss where the factual allegations in the plaintiff's complaint present a dispositive legal issue precluding relief. *See Marshall County Bd. of Educ. v. Marshall County Gas Dist.,* 992 F.2d 1171, 1174 (11th Cir. 1993).

THE ALLEGATIONS

As set forth, albeit inartfully, in the operative complaint (Doc. No. 74), Plaintiffs are suing various state judicial officers, officials, attorneys and other non-state employees relating to wrongs they assert they suffered in

connection with various state court proceedings. As was clear at the hearing held on this matter, the thrust of Plaintiffs' claims relate solely to actions taken by the state employed Defendants in their official capacities. Specifically, Plaintiffs allege a cause of action against all Defendants except Sperl for "civil rights violations" under 42 U.S.C. § 1983, namely, "extreme, malicious, and outrageous conduct" relating to the various proceedings in state court (Count I); against all Defendants for "violation of Plaintiffs constitutionally protected First Amendment right" (without mention of § 1983) in "prohibiting their right for [sic] redress of grievances in state court" (Count II); against Sperl, Neitzke and Brown for wrongful Breach of Agreement; namely, the Order of Modification of Final Judgment of Dissolution of Marriage (Count III); against all Defendants for "violation of Plaintiffs constitutionally protected Fifth Amendment right" (without mention of § 1983) in compelling Plaintiffs to appear at state court hearings (Count IV); against Defendants Graham, Neitzke and Sperl, for violation of Plaintiffs "protected Eleventh Amendment Right" (Count V); against all Defendants for violation of "Title IV" (Count VI); and against all Defendants for violations of 42 U.S.C. § 1985, "conspiracy to interfere with civil rights" for "intimidating Plaintiff Davis while acting as a witness" (Count VII).

The relief sought in these counts includes "restoration of minor son Karl J. Sperl," reinstatement of Plaintiff's drivers license, recovery of undisbursed child support payments, "unemployment funds 32%," as well as "lost income, lost attorney fees, punitive damages," annulment of existing Order of Modification of Final Judgment of Dissolution of Marriage, and an unspecified injunction.

ANALYSIS

The allegations and representations made by Plaintiffs at hearing make clear that Plaintiffs seek to challenge several state court orders and rulings, and related actions, with respect to several separate criminal, family and civil court actions, including child custody and support rulings. *See* Doc. No. 135. This court is without subject matter jurisdiction to entertain such claims, pursuant to the *Rooker-Feldman* doctrine.[2] The doctrine bars a losing party in state court "from seeking what in substance would be appellate review of the state judgment in the United States district court, based on the losing party's claim that the state judgment itself violates the loser's federal rights." *Johnson v. DeGrandy*, 512 U.S. 997 (1994). *Rooker-Feldman* recognizes that 28 U.S.C. § 1331 is a grant of original and jurisdiction and does not authorize district courts to exercise appellate jurisdiction over state-court judgments. As explained by the Supreme Court, if the state-court decision was wrong, that does not a make the judgment void, but merely left it open to reversal or modification in an appropriate and timely appellate proceeding. Federal district courts lacked the requisite appellate authority, for their jurisdiction was "strictly original". *Rooker,* 263 U.S. at 416. *See also Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, ___ U.S. ___, 125 S.Ct. 1517, 161 L.Ed.2d 454, 73 USLW 4266 (U.S. Mar 30, 2005). Here, plaintiffs seek precisely the sort of review and relief that is prohibited by the doctrine. Thus, the motions to dismiss should be **granted.**

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[2] *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

Moreover, to the extent the operative complaint could somehow be construed to state a cause of action under 42 U.S.C. § 1983 that is not barred by *Rooker-Feldman*, the claim is defective as a matter of law. Although Plaintiffs insist that all Defendants are sued in their individual capacities, the actions complained of (to the extent they can be discerned from the conclusory and muddled allegations of the operative complaint) are actions taken by Defendants in their official capacities. John Tanner, as Volusia County State Attorney, "was not only willing to prosecute defendant Chew under the erroneous false check charges but [was] also willing to engage in malicious prosecution in pursuit of a ten year prison sentence against plaintiff Chew . . . " (Allegation 36). Defendant Graham, a state a court judge, is being sued for granting a temporary petition for injunction, and denying a motion for rehearing (Allegation 30). Defendant Winslow is a child support hearing officer. The operative complaint asserts that Winslow's report and recommendation of hearing officer "was fraudulent and unconscionable." (Allegation 11). Defendant Matousek is a state Clerk of Court, sued for "re-filing" a claim under a new case number (Allegation 35). Defendant Jimenez is legal counsel for the state Department of Highway Safety and Motor Vehicles, and Defendant Zmijewski was an assistant state attorney. Both "receive[d] correspondences from Plaintiff" but caused Plaintiff's driver's license to remain "utterly void" anyway (Allegations 20-21).

The allegations all implicate official conduct, and, as such, these state actors are immune from suit. "It is . . . well established that officials acting in a judicial capacity are entitled to absolute immunity against § 1983 actions, and this immunity acts as a complete shield to claims for

money damages." *Montero v. Travis,* 171 F.3d 757, 760 (2d Cir. 1999); accord *Wahl v. McIver,* 773 F. 2d 1169, 1172 (11th Cir. 1985). Prosecutors are also entitled to absolute immunity when initiating and pursuing a criminal prosecution. *See Imbler v. Pachtman,* 424 U.S. 409, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976). Clerks of court may also be covered by absolute judicial immunity for performing a ministerial function at the direction of the judge, or qualified immunity for performing routine functions. *Williams v. Wood,* 612 F.2d 982, 985 (5th Cir. 1980). Assigning a case number and accepting a case for filing are clearly routine functions. The lawyer for the DMV is also entitled to qualified immunity.[3]

Although these motions raises several other defenses, the above two points are dispositive. Defendants Tanner, Matousek, Winslow, Graham, Jimenez and Zmijewski should be dismissed, with prejudice.

As for other Defendants, the record reflects that timely and adequate service was not had on Defendants Elliot Stroves, Barbara Francher [sic] Jones, John Bolton, and Donna Zmijewski.[4] As such, it is **respectfully**

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[3] When applicable, qualified immunity protects government actors performing discretionary functions from liability for civil damages when being sued in their individual capacities. When qualified immunity is asserted in the context of a motion to dismiss, we look to the pleadings to see if the plaintiff has successfully alleged the violation of a clearly established right. *See Snider v. Jefferson State Cmty. Coll.,* 344 F.3d 1325, 1327 (11th Cir. 2003). Here, Plaintiffs have not met this standard. There is no constitutional right not to have your driver's license suspended.

[4] For Defendants Jones, Bolton and Stroves, no appearance was made. Defendant Zmijewski's attorney made a limited appearance, and has moved to dismiss on her behalf for lack of personal jurisdiction, as well as several other meritorious grounds. Based on these grounds, as

(Continued on following page)

recommended that the complaint be **dismissed**, with respect to Stroves, Jones and Bolton, pursuant to Rule 4(m), Federal Rules of Civil Procedure.

With respect to the remaining Defendants (and motions) the Court finds as follows:

MOTION:	**MOTION FOR DEFAULT JUDGMENT AGAINST RICHARD E. BROWN (Doc. No. 99)**
FILED:	**July 26, 2005**

THEREON it is **RECOMMENDED** that the motion be **DENIED**, with prejudice.

The Court has already repeatedly denied the motion for default judgment against this Defendant. *See* Doc. Nos. 46, 64, 93. For the final time, the Court notes that a default judgment is not appropriate here as Defendant Brown has timely appeared in the litigation, prior to the expiration of 20 days after Plaintiffs perfected service on May 23, 2005.[5]

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set fourth above, the Court recommends that she be dismissed, with prejudice.

[5] Defendant Brown was not one of the original defendants in this matter. He first appeared as a party in the Second Amended Complaint filed on April 12, 2005 (Doc. No. 25). It appears that Plaintiff first "served" Defendant Brown via sending a package through UPS (Doc. No. 33). The unsworn computer printout reflects that someone named "Hayes" signed for a package. This is not an acceptable affidavit showing adequate service of process. Plaintiff tried again in May, using the sheriff's office (Doc. No. 84). On May 23, 2005, Brown had made an appearance in this matter (Doc. No. 52).

MOTION:	**MOTION FOR DEFAULT JUDGMENT AGAINST HARRY SPERL (Doc. No. 100)**
FILED:	**July 26, 2005**
THEREON it is **RECOMMENDED** that the motion be **DENIED.**	

As above, the motion for default judgment against this Defendant has been denied by the Court twice previously (Doc. Nos. 64, 93). The record reflects that "service" was first attempted via UPS (Doc. No. 27). As above, that attempt does not constitute good service. On March 29, 2005, Defendant Sperl was served via the county sheriff (Doc. No. 86). Sperl has served a responsive pleading on April 13, 2005, and has timely appeared in this action (Doc. No. 31).

MOTION:	**PLAINTIFFS' MOTION TO DISMISS JOHN TANNER (Doc. No. 119)**
FILED:	**August 4, 2005**
THEREON it is **RECOMMENDED** that the motion be **DENIED, as moot.** At hearing, Plaintiff confirmed that the relief sought was not his intent.	

MOTION:	**PLAINTIFF'S MOTION TO DISMISS JOHN BOLTON (Doc. No. 120)**
FILED:	**August 5, 2005**
THEREON it is **RECOMMENDED** that the motion be **DENIED.** At hearing, Plaintiff	

confirmed that the relief sought was not his intent.
MOTION: PLAINTIFF'S MOTION TO DISMISS SROVES (Doc. No. 127) **FILED: August 12, 2005**
THEREON it is **RECOMMENDED** that the motion be **DENIED.** At hearing, Plaintiff confirmed that the relief sought was not his intent.

With respect to the remaining Defendants, Richard Brown was the mediator in one of the state court cases, Harry Sperl is a private citizen and the ex-husband of Plaintiff Chew, and Eric Neitzke is Sperl's lawyer.

Construed liberally, the asserted basis of this Court's jurisdiction is federal question jurisdiction, specifically, alleged violations of 42 U.S.C. § 1983.[6] That claim, however, fails as a matter of law against these Defendants.

Initially, the Court notes that Plaintiff Chew has sued these three Defendants in this Court previously, alleging what appears to be the same claim, and that claim was dismissed. *See Karl Sperl, minor by and through Leyda E. Chew v. Frank Marriott, Eric Neitzke, James R. Evans, Harry Sperl and Richard E. Brown,*

[6] As noted above, not all the counts of the operative complaint mention Section 1983. Indeed, Count III is a breach of agreement action, presumably under state law, and Count VI is an action for violation of the otherwise unidentified "Title IV." The operative complaint is silent as to what this refers to, and, without more, this count is incomprehensible.

Case No. 6:04cv194-Orl-31JGG. As set in that case, in order to obtain relief under § 1983, a plaintiff must show that a person acting under color of state law deprived him or her of a federal right. *Patrick v. Floyd Medical Center,* 201 F. 3d 1313, 1315 (11th Cir. 2000). The under-color-of-state-law element excludes merely private conduct, no matter how wrongful. *American Manufacturers mutual Insurance Company v. Sullivan*, 526 U.S. 40, 50 (1999). Section 1983 can only reach the conduct of non-state actors in three circumstances: 1) if the private individuals are performing functions traditionally in the exclusive prerogative of the state ("the public function test"); 2) if the private Constitutional violation is coerced, or at least significantly encouraged by government ("the state compulsion test"); or 3) if the state has so far insinuated itself into a position of interdependence with the private party that it was a joint participant in the enterprise ("the nexus/joint action test"). *Willis v. University Health Services, Inc.*, 993 F.2d 837, 840 (11th Cir. 1993).

Applied here, Plaintiffs allegations are not actionable under Section 1983, as a matter of law. The operative complaint fails to show that these private parties acted under color of state law to deprive Plaintiffs of any rights, privileges, or immunities secured by the Constitution.[7] There are no allegations that meet the public function test,

[7] The operative complaint is silent as to whether mediator Brown was a de facto state actor, in that he was arguably performing a quasi-judicial function traditionally performed by the state. To the extent Richard Brown is being sued for his actions as a mediator, however, he is entitled to judicial immunity, to the same extent as judges. Fla. Stat. Ann. § 44.107. As that immunity is absolute for actions taken in his official capacity, and the only actions complained of here are official actions, the claim must be dismissed.

the state compulsion test, or the nexus/joint action test, sufficient to reach the conduct of these private parties under § 1983.

Absent a viable federal claim, the Court is without jurisdiction to entertain any remaining claim.[8] As a district Court may not normally dismiss claims *sua sponte* for failure to state a cause of action without giving the plaintiff notice and an opportunity to respond, it is **respectfully recommended** that the District Court issue an Order to Show Cause as to why the remaining claims should not be dismissed for the reasons stated above.

MOTION:	**MOTION FOR PRELIMINARY INJUNCTION (Doc. No. 116)**
FILED:	**August 3, 2005**
THEREON it is **RECOMMENDED** that the motion be **DENIED**, as moot, in view of the foregoing.	
MOTION:	**MOTION TO SEVER (Doc. No. 88)**
FILED:	**July 18, 2005**
THEREON it is **ORDERED** that the motion is **DENIED**.	
MOTION:	**MOTION FOR CLARIFICATION (Doc. No. 131)**
FILED:	**August 26, 2005**

[8] There are no allegations sufficient to invoke diversity jurisdiction and all parties, save Sperl, appear to be Florida residents.

THEREON it is **ORDERED** that the motion is **DENIED.**
MOTION: **AMENDED MOTION FOR CLARIFICATION (Doc. No. 133)** **FILED:** **August 29, 2005**
THEREON it is **ORDERED** that the motion is **DENIED.**
MOTION: **MOTION FOR PRELIMINARY INJUNCTIVE RELIEF REGARDING DISCLOSURE OF DOCUMENTS (Doc. No. 134)** **FILED:** **August 29, 2005**
THEREON it is **ORDERED** that the motion is **DENIED**, as moot.
MOTION: **MOTION FOR TRANSCRIPT OF HEARING (Doc. No. 136)** **FILED:** **August 29, 2005**
THEREON it is **ORDERED** that the motion is **DENIED** without prejudice. A motion is not required to request a transcript of the hearing from the Clerk's office. Parties are free to contact and make arrangements for payment with the Clerk's office regarding transcript requests.

Failure to file a written objections to the proposed findings and recommendations contained in this report within ten (10) days from the date of its filing shall bar an

aggrieved party from attacking the factual findings on appeal.

Recommended in Orlando, Florida on September 1, 2005

/s/ David A. Baker
DAVID A. BAKER
UNITED STATES
MAGISTRATE JUDGE

Copies furnished to:

Presiding District Judge
Counsel of Record
Unrepresented Parties
Courtroom Deputy

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
Judge John Antoon II
Assigned Magistrate Judge

CHARLIE H. DAVIS, INDIVIDUALLY AND ON BEHALF OF LEQUINDRA KEION DAVIS AND KAITRONDRA CHALISE DAVIS,

Plaintiffs,

v. **Case No. 6:05-cv-416-Orl-28DAB**

HON. GEORGE WINSLOW, JR., HON RICHARD S. GRAHAM, BARBARA FANCHER JONES, KATHY A. JIMENEZ, ERIC K. NEITZKE, DONNA S. ZMIJEWSKI, HARRY SPERL,

Defendants,

ORDER ON INTERESTED PERSONS AND CORPORATE DISCLOSURE

This Court makes an active effort to review each case in order to identify parties and interested corporations in which the assigned District Judge or Magistrate Judge may have an interest, as well as for other matters that might require consideration of recusal. It is therefore

ORDERED, that, within **eleven** days[1] from the date of this order (or from the date of subsequent first appearance[2] in this action), **PLAINTIFF LEYDA E. CHEW AND DEFENDANTS HON. GEORGE WINSLOW, JR., HON RICHARD S. GRAHAM, KATHY A JIMINEZ, ERIC K. NIETZKE, DONNA S. ZMIJEWSKI, AND HARRY SPERL shall file and serve** a CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT substantially in the following form:

* * *

It is **FURTHER ORDERED** that no party may seek discovery from any source before filing and serving a CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT. A motion, memorandum, response, or other paper – including emergency motion – may be denied or stricken unless the filing party has previously filed and served a CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT.

Conflicts Disclosure

The undersigned Judge and Magistrate Judges have placed on www.flmd.uscourts.gov (click on "Chambers",

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[1] Intermediate Saturdays, Sundays, and specified legal holidays are *in*cluded in the computation of periods of eleven days or more. *See* Fed. R. Civ. P. (6)a; Local Rule 4.20. If order was served by mail, add three days to the prescribed period. Fed. R. Civ. P. 6(e); Local Rule 4.20(a)(2). Service by facsimile constitutes a method of hand delivery for the purpose of computing the time within which any response is required. Local Rule 1.07(c).

[2] Every pleading or paper filed constitutes a general appearance of the party unless otherwise specified. Local Rule 2.03(a).

then click on the name of the Judge, e.g., "Honorable John Antoon II", then click on "Interest List") a list of investments, of which the Judge is aware, owned by family members of such Judge or by the Judge or Magistrate Judge. This information is provided so that participants in this case will be able to advise the Court if there is any actual or apparent conflict of interest in the assignment of this case. This information is not to be used for any other purpose. It is anticipated that this list will be updated regularly. In addition to viewing the list on www.flmd.uscourts.gov, any party, counsel, or movant appearing in a case assigned to the undersigned Judge or Magistrate Judge may view a copy of the list at the Clerk's office in Orlando, Florida.[7]

It is **FURTHER ORDERED** that each party has a continuing obligation to file and serve an amended CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT within eleven days of discovering any ground for amendment, for conflict of interest, for recusal, or for disqualification of the judicial officer.

Therefore, it is **FURTHER ORDERED** that, in order to assist the Court in determining when a conflict of interest may exist, each party shall use the full caption of this case, including the names of all parties and intervenors, on

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[7] Attention is directed to the Ethics Reform Act of 1989, published in Title 5 of the United States Code Annotated, Appendix 4, Sections 101-112, for information concerning the procedure for obtaining copies of the Financial Disclosure Report, and to II Guide to Judiciary Policies and Procedures, Codes of Conduct for Judges and Judicial Employees, ch. I, Code of Conduct for United States Judges, Canon 3 and ch. V, Compendium of Selected Opinions, §3.1 (Administrative Office of the United States Courts 1999) for further information on recusable and non-recusable interest.

all motions, memoranda, papers, and proposed orders submitted to the Clerk. *See* Fed. R. Civ. P. 10(a); Local Rule 1.05(b) (*"et al"* discouraged).

Counsel shall file an original and one copy of the Certificate of Interested Persons Order.

JOHN ANTOON II
John Antoon II
United States District Judge

DAVID A. BAKER
David A. Baker
United States
Magistrate Judge

JAMES G. GLAZEBROOK
James G. Glazebrook
United States
Magistrate Judge

KARLA R. SPAULDING
Karla R. Spaulding
United States
Magistrate Judge

June 6, 2005

Copies to: All Counsel of Record
All *Pro Se* Parties

EXHIBIT "11-A"

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

THE STATE OF FLORIDA
DEPARTMENT OF REVENUE
on behalf of:

Delois Neal,
Petitioner,

v.

Charlie H. Davis,
Respondent.

CASE NO. DR 86-3511

REPORT AND RECOMMENDATION OF THE
HEARING OFFICER AND ORDER OF CONTEMPT

THIS CAUSE having come before the undersigned Judicial Hearing Officer this 21 day of March, 2005, upon the Motion for Contempt filed by the Department of Revenue, and the court having jurisdiction of the Parties and the subject matter and being otherwise duly advised in the premises, it is Reported and Recommended:

1. **CONTEMPT:**

A. The Respondent has had the ability to comply with this court's order and willfully failed to do so and is therefore found to be in contempt.

— The Respondent is not found in willful contempt.

N/A ONGOING CHILD SUPPORT PAYMENTS:

The Respondent shall continue paying child support of $------ per ------.

2. **CHILD SUPPORT ARREARS AND REPAYMENT:**

The Respondent is in arrears in child support in the amount of $7,742.13 as of 3-4-2005. This arrearage shall be paid by making the following payments:

A. A lump sum payment of $150.00 by 3-31-2005.

B. An additional payment of $30.00 per week commencing 4-8-2005.

— The Court reserves jurisdiction over repayment of any remaining arrearages.

3. **PAYMENTS:**

All payments, as stated above, shall be made in cash, money order, certified check drawn on the account of the Respondent or payer of Respondent. Payments shall be made payable to the state of Florida Disbursement Unit, P.O. Box 8500, Tallahassee, Florida., 32314-8500. **ONLY PAYMENTS MADE THROUGH THE STATE DISBURSEMENT UNIT OR AS OTHERWISE DIRECTED BY THE COURT WILL BE CREDITED TO THE RESPONDENT.** Upon request the Clerk shall furnish the Department of Revenue with a certified statement of all payments made to the Respondent's account. The Clerk is authorized to automatically adjust the child support payment account established in this matter to accurately reflect any reported change in the Respondent's pay frequency.

N/A **MEDICAL INSURANCE:**

Medical insurance (provisions of the Final Judgment continue in effect.) (is not) (is) (may be) (see attached Health Insurance Addendum) available to the Respondent. If medical insurance is required or may be available, proof of such insurance coverage shall be provided to the Department of Revenue, Child Support Enforcement,

Hurston Building South Tower, Suite S509, 400 W. Robinson Street, Orlando, FL. 32801 within 45 days of this hearing.

4. **PETITIONER'S INFORMATION**
RESPONDENT'S INFORMATION

See attached Information Addendum

The mailing address information listed in the attached addendum for each of the parties is the address that will be used to communicate with the parties. Should any of the above information change, you are hereby ordered to notify the Court, the Clerk's Office and the Department of Revenue, in writing, of such change. **Failure to keep your current address information on file may result in you not receiving some important child support information or Court appearance dates.**

5. **UNEMPLOYMENT COMPENSATION:**

Pursuant to Section 443.051 (Florida Statutes 1989) and Section 462(e) of Title IV-D of the Social Security Act, the Department of Labor and Employment Security shall deduct and withhold 20 percent from unemployment compensation benefits payable to the Respondent, not to exceed the ongoing support obligation.

6. **COSTS:**

The Respondent shall pay $90.00 in costs within 365 days of this hearing. Costs shall be paid by money order or certified funds to the Department of Revenue, Child Support Enforcement, Suite S509, 400 W. Robinson Street, Orlando, FL. 32801

7. **INCOME DEDUCTION ORDER:**

The Court Shall enter an immediate income deduction order.

8. **OBLIGOR'S STATEMENT OF RIGHTS:**

Attached hereto is the Obligor's statement of rights addendum.

= **ADDITIONAL PROVISIONS:**

_____

_____

_____

9 **RESERVATION OF JURISDICTION:**

The Court reserves jurisdiction over the parties and the subject matter of this action to enforce the terms and provisions of the order entered from this Report and Recommendation as well as to enforce the terms and provisions of all previous orders and to enter such other and further orders as may be just and proper.

REPORTED AND RECOMMENDED at Orlando, Orange County, Florida this 21 day of March 2005.

/s/ C. Elliott Sroves
JUDICIAL HEARING OFFICER

FINAL JUDGMENT

THIS COURT having reviewed the above Report and Recommendation of the Judicial Hearing Officer, it is hereby:

ORDERED and ADJUDGED that the above Report and Recommendation is hereby approved, confirmed and adopted as a Final Judgment of this Court and all parties shall be governed thereby and shall comply with the same in each and every one of its particulars.

DONE and ORDERED at Orlando, Orange County, Florida, this ___ day of March, 2005.

CIRCUIT COURT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been hand delivered this 21 day of March, 2005 to the Plaintiff c/o Tangel-Rodriguez & Associates, 222 Weber Street, Orlando, FL., 32803 and by ~~U.S. Mail~~ on the same date to the respondent at ~~the address stated in this Order or c/o~~ by hand.

/s/ [Illegible]
Attorney for Plaintiff

EXHIBIT "37-A"

VOLUSIA County Warrant Number: 6

FELONY WARRANT

STATE OF FLORIDA

VS.

LEYDA ELENA CHEW

IN THE CIRCUIT COURT FOR VOLUSIA COUNTY, FLORIDA
CASE NUMBER: 04-34014CFAES

CHARGE(S):

- **STOPPING PAYMENT WITH INTENT TO DEFRAUD**

W/F: DOB: 10/08/1962; SSN: XXX-XX-XXXX
HGT.: 503 / WGT.:

In the name of the State of Florida, to all Singular the Sheriffs of the State of Florida:

WHEREAS, RICHARD E. BROWN has made oath before SHELIA PRICE, A NOTARY PUBLIC, that one, LEYDA ELENA CHEW, on or about December 2, 2003, in the County of VOLUSIA and State of Florida, did then and there, in person or by agent and with intent to defraud RICHARD E BROWN, make, draw, utter, issue, deliver, or give a check, draft, or other written order payable in the amount of $180.00, for the payment of money upon WACHOVIA, thereby securing from RICHARD E BROWN certain, goods, or services of value, and did, pursuant to and in furtherance of such intent to defraud, stop payment of said check, draft, or order contrary to Florida Statute 832.041(1). (3 DEG FEL)

These are, therefore, to command you to arrest instanter the above named accused and bring him/her before the CIRCUIT Court, VOLUSIA County, Florida, at the

next scheduled 24-hour appearance hearing following his/her arrest, unless he/she shall first post bond in the amount of R.O.R.

Given under my hand and seal this 21 day of June, 2004.

/s/ [Illegible]
CIRCUIT JUDGE
VOLUSIA COUNTY, FLORIDA

EXTRADITION INFORMATION:
ENTE[illegible]

EXHIBIT "31-A"

THE STATE OF FLORIDA, DEPARTMENT OF REVENUE, On Behalf Of: Delois Neal Petitioner, v. Charlie Davis Respondent. /	IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR ORANGE COUNTY, FLORIDA CASE NO. DR 86-3511

FINAL ORDER ON MOTION

THIS CAUSE having come before the undersigned Judicial Hearing Officer on the 7th day of October, 2002, on a Motion for Extension Of Time filed by the (State of Florida, Department of Revenue, on behalf of Petitioner), (~~Respondent~~), and the Hearing Officer having been duly advised in the premises, it is thereupon FOUND:

1. That this Court has jurisdiction over the parties and subject matter.

2. That the Respondent was properly noticed and did/~~did not~~ appear for the instant hearing.

3. The Court finds that the Respondent's mailing address is 1934 S. Old Apopka Rd, Apopka FL 32703.

It is therefore REPORTED and RECOMMENDED:

1. The Motion is GRANTED/DENIED.

2. The Department shall file proof by Monday, October 14, 2002 that a check has been issued to the Respondent by Friday, October 11, 2002 for $2,107.06 and

mailed to Respondent at his address of record indicated above.

3. That the court finds this is the second time the Department has been ordered to reissue the check, since June 24, 2002 but the Department has failed to do so timely.

4. That this Court retains jurisdiction over the parties and subject matter.

REPORTED and RECOMMENDED at Orlando, Orange County, Florida this 7th day of October, 2002.

/s/ [Illegible]
JUDICIAL HEARING OFFICER

FINAL ORDER

THIS CAUSE came before the Court without hearing on the above Report and Recommendation. The Court has examined the Court file and is fully advised in the premises. It is thereupon

ORDERED and ADJUDGED:

That the above Report and Recommendation is approved, ratified, confirmed and adopted as an Order of this Court and is incorporated herein by reference. All parties shall be governed thereby and shall comply with the same in each and every one of its particulars.

DONE and ORDERED at Orlando, Orange County, Florida this 7th day of October, 2002.

/s/ _____
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to the Respondent at 1934 S. Old Apopka Rd. Apopka, FL 32703 this ___ day of _____, ___

/s/ [Illegible]
TANGEL-RODRIGUEZ & ASSOCIATES
222 Weber Street
Orlando, Florida 32803
Phone: (407) 843-8363
Attorneys for DOR/CSE

EXHIBIT "19-A"

IN THE CIRCUIT COURT, OF
THE SEVENTH JUDICIAL
CIRCUIT IN AND FOR
VOLUSIA COUNTY FLORIDA

CASE NO: 99-30209 – FMC

IN RE: THE FORMER
MARRIAGE OF

LEYDA CHEW f/k/a
LEYDA SPERL,

Former Wife,

and,

HARRY SPERL,

Former Husband. /

ORDER OF MODIFICATION OF FINAL JUDGMENT OF DISSOLUTION OF MARRIAGE

(Filed Sep. 12, 2002)

THIS CAUSE came on before the Court upon Former Husband's Supplemental Complaint for Modification of Final Judgment; Former Wife's Answer, Affirmative Defenses, and Counter-Petition for Modification of Final Judgment – Custody Decree; Former Husband's Answer to Former Wife's Affirmative Defenses and Counter-Petition for Modification; as well as the Mediation Settlement Agreement; and Mediation Disposition Report dated September 6, 2002 and the Court having reviewed the facts and circumstances of the case, and being otherwise fully advised in the premises,

FINDS as follows:

1. The parties hereto were the subjects of Final Judgments of Dissolution of Marriage entered by the Court on March 28, 2001.

2. Included in the Final Judgment was a directive that the Parties' submit to mediation to resolve some issues including the visitation schedule. Accordingly, a partial Mediation Agreement was reached on April 16, 2002 and an Order thereon was entered April 22, 2002, entitled Order on Partial Mediation Agreement and Modification of Final Judgment of Dissolution of Marriage. This is the status of the Judgments in existence at the present time.

3. Thereafter, Former Husband filed a supplemental Complaint to modify Final Judgment of Dissolution on May 16, 2002, wherein he sought an increase in child support.

4. Thereafter, Former Wife filed an Answer to that Supplement Complaint, as well as Affirmative Defenses and a Counter-Petition for modification of Final Judgment-Custody Decree wherein she was seeking primary residential responsibility and payment of attorney fees.

5. On September 6, 2002, the Parties met, along with Counsel for Former Husband, with Mediator Richard E. Brown and, according to the Mediation Disposition Report, reached an amicable agreement as to all of the pending issues.

6. A mediation Settlement Agreement executed by the Parties, Counsel for former Husband, and the Mediator, was fully prepared and is attached hereto, made a part hereof, and incorporated herein by reference as though fully set forth in this Order.

7. Based upon financial information exchanged by the Parties, there has been a substantial and material change in the circumstances of the Parties with respect to Former Wife's ability to pay an increase in child support. The Guidelines bear out that Former Wife's present support obligation is in excess of $663.00 per month. Nevertheless, Former Husband in his pleading conceded that he is willing to continue receiving an amount below Guideline support because of considerations of travel created so that Former Wife could have visitation. As such, the Parties have agreed in mediation to a monthly amount of $450.00 beginning September 30, 2002, which this Court deems appropriate under the circumstances and approves despite the fact that it is below Guidelines.

8. As and for an additional basis of the below Guidelines child support, the parties have also agreed that Former Wife will take over the role of providing the medical insurance for the child beginning January 1, 2003. This change constitutes a monthly shift equivalent to just over $150.00.

9. The Parties have also created a method by which they will resolve all future disagreements concerning the minor child, by first submitting matters to Mediator Richard E. Brown with the express understanding that they would equally divide any cost thereof. Only after the matter had been mediated unsuccessfully could the Parties apply to a Court for resolution.

10. Except as to those issues specifically modified as described herein, the Parties agreed to drop any further pleadings or requests including, but not limited to, Former Wife's Counter Petition for Modification of Final Judgment-Custody Decree, and Former Husband's

Supplemental Complaint for Modification of Final Judgment.

On these findings, it is hereby ORDERED and ADJUDGED as follows:

1. The Final Judgment of Dissolution of Marriage in the above styled action as previously modified by the Order on Partial Mediation Agreement entered April 22, 2002, is hereby further modified as follows:

a. The Former Wife, LEYDA CHEW, shall hereafter commence paying to Former Husband, HARRY SPERL, the sum of $450.00 per month beginning September 30, 2002, with a like sum to be paid on the last day of each month thereafter by Income Deduction Order until the minor child reaches the age of majority, dies, marries, or becomes otherwise fully emancipated, whichever shall first occur. In the event that the minor child is still in high school with a reasonable degree of expectation of graduation before his 19th birthday, child support shall continue until graduation. All sum herein described shall be paid as and for child support.

b. Commence January 1, 2003, Former Wife, shall assume sole responsibility for the medical/health insurance for minor child, and shall provide Former Husband with an appropriate insurance card and proof of the existence and timely payment of the insurance. The parties shall continue to be equally responsible for any medical expenses of the minor child not covered by said policy of insurance.

c. Failure to adhere to the terms and conditions concerning the health insurance and responsibility to equally divide any unpaid expenses shall at all times be deemed enforceable by contempt.

d. In the event that there is ever a disagreement by the Parties relating to the minor child, the Parties shall first attempt to resolve the disagreement between themselves, and if unable to resolve the disagreement, shall then submit any disagreement to Mediator Richard E. Brown to resolve any conflicts, equally dividing any costs thereof. In the event that the mediation does not resolve a resolution of the conflict, the Parties may then apply to the Court for resolution.

2. Except as modified by the terms and conditions of this Order, the final Judgment of Dissolution of Marriage, as previously modified, shall remain in full force and effect, and the Parties shall at all times abide by the terms and conditions outlined therein.

3. All pending pleadings and issues presently before the court including Former Wife's Counter-Petition for Modification of Final Judgment-Custody Decree, and the remainder of Former Husband's Supplemental Complaint for Modification are dismissed by agreement of the Parties.

4. The parties shall each bear their own attorney and cost, and shall be responsible for one-half of the cost of mediation.

5. This court shall continue to retain jurisdiction over the subject and the Parties hereto to enter such additional Orders as may from time to time become necessary.

6. Counsel for Former Husband shall submit an Income Deduction Order to be entered by the Court pursuant to the terms and conditions of this modification.

DONE and ORDERED in Chambers at Daytona Beach, Volusia County Florida, this 11th day of September 2002.

/s/ Robert K. Rouse
HONORABLE ROBERT K. ROUSE
CIRCUIT COURT JUDGE

cc: Leyda Chew, pro se
Eric K. Neitzke, Esquire
Richard E. Brown, Esquire

EXHIBIT "9-A"

THE STATE OF FLORIDA, DEPARTMENT OF REVENUE, On behalf of: DELORIS NEAL, Petitioner,	IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR ORANGE COUNTY, FLORIDA
v.	
CHARLIE DAVIS, Respondent. /	CASE NO. DR 86-3511

FINAL ORDER ON MOTION TO STRIKE MOTION TO COMPEL

THIS CAUSE having come before the undersigned judicial Hearing Officer to be heard on the 24th day of June 2002 the Motion to Strike Motion to Compel, filed by the State of Florida, Department of Revenue, on behalf of Petitioner, and the hearing officer having been duly advised in the premises, it is thereupon FOUND:

1. That this Court has jurisdiction over the parties and subject matter.

2. That the Respondent was properly noticed and did appear for the instant hearing.

3. That review of the documents provided by both parties indicated that the Respondent did receive a refund of $689.00 for Unemployment Compensation withheld and also a refund of $1,928.27 in 1994 for IRS refund intercepted.

4. That the only issue remaining in dispute is the alleged refund of $2,107.06 by check dated August 10, 1994, for IRS refund intercepted.

5. That the Department's check history indicates a check for $2,107.06 issued on August 10, 1994, but has no payment date and also is not shown on the Respondent's bank statement.

It is therefore REPORTED and RECOMMENDED:

1. The Department's Motion is Denied.

2. Within the next 30 days, the Department shall obtain, file and serve proof that the check issued August 10, 1994, for $2,107.06 was cashed, or, if that cannot be done, shall issue an alternate check to the Respondent in the amount of $2,107.06.

3. That the Department's participation in this case will then end, since the Redirection Notice dated May 3, 2002, and filed in the Court file indicates the petitioner is no longer requesting representation by the Department.

4. That this Court retains jurisdiction over the parties and subject matter.

Reported and Recommended at Orlando, Orange County, Florida this 27th day of June 2002.

/s/ [Illegible]
JUDICIAL HEARING OFFICER

FINAL ORDER

THIS CAUSE came before the Court without hearing on the above report and recommendation. The Court has examined the court file and is fully advised in the premises. It is thereupon

ORDERED and ADJUDGED:

That the above Report and Recommendation is approved, ratified, confirmed and adopted as an Order of this Court and is incorporated herein by reference. All parties shall be governed thereby and shall comply with the same in each and everyone of its particulars.

DONE and ORDERED: at Orlando, Orange County, Florida this 27 day of June, 2002.

/s/ [Illegible]
CIRCUIT JUDGE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to the Respondent at 1934 S. Old Apopka Rd, Apopka FL 32703 this 9th day of July, 2002.

/s/ [Illegible]
TANGEL-RODRIGUEZ & ASSOCIATES
222 Weber Street
Orlando FL 32803
407 843 8363
Attorneys for DOR/CSE

EXHIBIT "32-A"

THE STATE OF FLORIDA, DEPARTMENT OF REVENUE, On behalf of: Delois Neal, Petitioner, v. Charlie Davis, Respondent.	IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR ORANGE COUNTY, FLORIDA CASE NO. DR 86.3511 / CODE

FINAL ORDER ON MOTION FOR REHEARING

THIS CAUSE having come before the undersigned Judicial Hearing officer on the 3 day of April, 2001, on a Motion for Rehearing filed by the Respondent ~~State of Florida, Department of Revenue, on behalf of Petitioner~~, and the Hearing Officer having been duly advised in the premises, it is thereupon FOUND:

1. That this Court has jurisdiction over the parties and subject matter.

2. That the Respondent was properly noticed and did/~~did not~~ appear for the instant hearing.

It is therefore REPORTED and RECOMMENDED:

1. The Motion is GRANTED/~~DENIED~~ to the extent of clarifying and modifying the prior Order of the Court entered January 25, 2001.

2. Until the matters addressed in the January 25, 2001, Order are resolved, the Department is directed:

A. NOT to suspend or cause to be suspended the Respondent's driver's license and vehicle registration, and, if suspended to reinstate immediately;

B. NOT to certify any arrearage for IRS intercept or to any credit reporting agency; and

C. NOT to refer this case for contempt.

3. That this Court has jurisdiction over the parties and subject matter.

REPORTED and RECOMMENDED at Orlando, Orange County, Florida this 3 day of April, 2001.

/s/ [Illegible]
JUDICIAL HEARING OFFICER

FINAL ORDER

THIS CAUSE came before the Court without hearing on the above report and recommendation. The Court has examined the court file and is fully advised in the premises. It is thereupon

ORDERED AND ADJUDGED:

That the above Report and Recommendation is approved, ratified, confirmed and adopted as an Order of this Court and is incorporated herein by reference. All parties shall be governed thereby and shall comply with the same in each and every one of its particulars.

DONE and ORDERED: at Orlando, Orange County, Florida this 3 day of April, 2001.

/s/ [Illegible]
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to the Respondent at 1934 S. Old Apopka Rd. Apopka FL 32703 this 11 day of April, 2001.

/s/ [Illegible]
TANGEL-RODRIGUEZ & ASSOCIATES
222 Weber Street
Orlando Florida 32803
Phone: (407) 843-8363
Attorneys for DOR/CSE

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 05-16599-DD

CHARLIE H. DAVIS,
LEYDA E. CHEW,
both individually and on behalf of
Lequindra Keion Davis (19) and
Chalise Davis (20)

Plaintiffs-Appellants,

versus

Hon. George Winslow Jr.,
Richard S. Graham,
Barbara Fancher Jones, Attorney,
Kathy A. Jimenez, Attorney,
Erik K. Neitzke, Attorney, et al.,

Defendants-Appellees,

On Appeal from the United States District Court
For the Middle District of Florida

(Filed Aug. 25, 2006)

BEFORE: BLACK, BARKETT and WILSON, Circuit Judges.

PER CURIAM:

The petition for rehearing filed by Appellants is DENIED.

ENTERED FOR THE COURT:

/s/ [Illegible]
UNITED STATES CIRCUIT JUDGE

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

November 1, 2006

Mr. Charlie H. Davis
1934 S. Old Apopka Road
Apopka, FL 32703

Re: Charlie H. Davis and Leyda E. Chew
v. George Winslow, Jr., et al.
Application No. 06A439

Dear Mr. Davis:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Thomas, who on November 1, 2006 extended the time to and including January 22, 2007.

This letter has been sent to those designated on the attached notification list.

Sincerely,

William K. Suter, Clerk

By: /s/ Melissa Blalock
Melissa Blalock
Case Analyst

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

NOTIFICATION LIST

Mr. Charlie H. Davis
1934 S. Old Apopka Road
Apopka, FL 32703

Clerk
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, GA 30303

No. 05-16599-DD

IN THE UNITED STATES COURT OF APPEALS
OF THE ELEVENTH CIRCUIT

CHARLIE H. DAVIS,
LEYDA E. CHEW,
Appellants/Plaintiffs,

vs.

HON. GEORGE WINSLOW JR., RICHARD S. GRAHAM, BARBARA FANCHER JONES, attorney's KATHY A. JIMENEZ, ERIC K. NEITZKE, attorney's et al.
Appellees/Plaintiffs,

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, DIVISION

PETITION FOR REHEARING OF THIS COURT'S DECISION DATED JULY 20, 2006

Charlie H. Davis
Leyda E. Chew
1934 S. Old, Apopka Rd.
Apopka, Florida 32703

U.S. COURT OF APPEALS FOR ELEVENTH CIRCUIT

CERTIFICATE OF INTRESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT
11th Cir. R. 26. 1

CHARLIE H. DAVIS vs. HON. WINSLOW JR.,
APPEAL NO. 05-16599-DD

1. ANN C. CONWAY, Judge
2. BARBARA FANCHER JONES, Appellee, Attorney

3. CHARLIE H. DAVIS, Appellant
4. DAVID A. BAKER, Judge
5. DIANE M. MATOUSEK, Appellee, Clerk Of The Court
6. DONNA S. ZMIJEWSKI, Appellee, Attorney
7. ELLIOTT SROVES, Appellee, Judicial Hearing Officer
8. GEORGE WINSLOW JR., Appellee, Judicial Hearing Officer
9. HARRY SPERL, Appellee
10. JOHN ANTOON II, Judge
11. JOHN TANNER, Appellee
12. JOHN BOLTON, Appellee
13. KAITRONDRA CHALISE DAVIS, Appellant's Daughter
14. KATHY A. JIMENEZ, Appellee, Attorney
15. LEYDA E. CHEW, Appellant
16. LEQUINDRA KEION DAVIS, Appellant's Son
17. RICHARD S. GRAHAM, Appellee, Judge
18. RICHARD E. BROWN, Appellee, Attorney
19. ERIC K. NEITZKE, Appellee, Attorney

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32(a)(7)(B), Fed. R. App. P 8

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Federal Rules

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STATEMENT PURSUANT TO RULE 40, FED. R. APP. P

On or about July 23, 2006 petitioners herein received a "[4]non published" copy of this courts decision dated July 20, 2006. Accordingly, under the rules governing the subject "petition for rehearing" (11th Cir. R. 40-3), petitioners herein were provided 21days thereof to file this "petition for rehearing" as to "each point of law or fact which the petitioners believe this court overlooked or misapprehended and must argue in support of the petition" (see also, the briefs filed by petitioners under duress dated May 01, 2006 in addition to the lower district courts' refusal to timely provide the mandated certification of the civil docket entries as well as a minimal response from appellee Barbara Fancher Jones which attorney Yvette Acosta Macmillian mentioned within the caption of her earlier "answer brief of appellees". See also, Leyda E. Chews brief filed thereafter on May 15, 2006 in stark and unfair and unconstitutional contrast to the time-based tightrope which appellant had to successfully traverse after the allotted time had tolled and both Harry Sperl

[4] **11th Cir. R. 36-2 Unpublished Opinions. An opinion shall be unpublished unless a majority of the panel decides to publish it. Unpublished opinions are not considered binding precedent. They may be cited as persuasive authority, provided that a copy of the unpublished opinion is attached to or incorporated within the brief, petition, motion or response in which such citation is made.**

and his attorney/appellee Eric K. Neitzke refused to answer)..

RULE 40(2), FED. R. APP. P. STATEMENT OF FACTS & MISAPPREHENSIONS OF THIS ELEVENTH CIRCUIT COURT OF APPEALS

This case presents a question of exceptional legal and public significance relative to the lower district court's decision to dishonor the constitutional rights of minority petitioners Davis and Chew as well as it's [sic] refusal to exercise statutory authority and subject-matter jurisdiction to hear said claims initially filed by minority petitioners Davis and Chew incorporating the unconstitutional violations which said appellees and appellees of the state of Florida named therein unlawfully committed in their individual capacity while acting under "color of state law".

As it appears, within this "11th Circuit Court of Appeals" non-published decision dated July 20, 2006 rendered "per curiam", this court premised it's [sic] "clearly erroneous" decision (*the Rooker-Feldman Doctrine*) not upon any factual finding that significantly would incorporate the evidence filed in the instant case file into a cognizable "appellate standard of review" treated as a finding of fact however, this court's decision was premised wholly upon a decision rendered as a [w]hole and without an extended decision impartial to the apprehension of minority petitioners evidence filed earlier (which this court advertently directed minority petitioners to remove from the record) in support of a lawful and factual finding that the lower district court unequivocally had original and subject-matter jurisdiction to hear the instant case filed by minority petitioners incorporating the unconstitutional violations committed by said appellees, Dkt. No. 74.

ARGUMENT

The lower district court's opinion and the honorable Black, Barkett, and Wilsons' dissent herein, demonstrate that major administrative law issues are at stake here in this case of the utmost importance to the welfare of future cases filed by minority petitioners in the lower district court's situated in the "great state of Florida". Rehearing is therefore warranted. . . .

Contrary to minority petitioners Davis and Chews' howled protest repeatedly disclosing the unconstitutional wrongs suffered by petitioners throughout the course of this action, petitioners argue the fundamental reproach to the earlier erroneous decisions rendered in this court and in lower district court would be to follow the analysis demonstrated by the justices of the U.S. Supreme Court in it's [sic] court rulings pursuant to an earlier unanimous Supreme Court decision disclosing that the *Rooker-Feldman* doctrine "is confined to cases of the kind from which the doctrine acquired its name; cases brought by state-court losers complaining of injuries caused by state court judgments rendered before the district court proceeding commenced and inviting district court review and rejection of those judgments. Minority petitioners Davis and Chew argue, that in this most recent Supreme Court ruling ("*Exon Mobil Corp. v. Saudi Basic Industries Corp.*, No. 03-1696, ___ S.Ct. ___, 2005 WL 711586 (Mar. 30, 2005 (emphasis added)), the *Rooker-Feldman* doctrine did not prevent a federal court from exercising concurrent original or subject-matter jurisdiction when parallel proceedings arising out of state court actions were filed latter [sic] in federal court, and that federal jurisdiction, once acquired, dose [sic] not "vanish" if the state action reaches a judgment before the federal action dose [sic]. That is a matter

of preclusion of law, not jurisdiction (*see "Supreme Court Narrows Rooker-Feldman Doctrine", attached hereto*).

Therein, the honorable justices of the Supreme Court demonstrates the initial example in analyzing minority petitioners Davis and Chew's claim incorporating 42 U.S.C § 1983 as a cause of action and it's [sic] jurisdictional counterpart in §28 U.S.C. 1343(a)(3) and 1331 which gives the lower district court original and subject-matter jurisdiction, similarly the claim arose out of state court first, prior to the filing of a concurrent action in district court as is in the instant case with petitioners Davis and Chew, Dkt. No. 74.

Petitioners Davis and Chew argue, that it was upon this basis and principal that petitioners brought their challenge to the lower district court, indisputably §1983 is not confined to constitutional violations, without more violations of federal statues [sic] can be the subject of a §1983 claim as it is in the instant case. In fact, §1983 creates no substantive rights, a plaintiff/petitioner must assert a federal right grounded either in the Constitution or federal statutory law as is in count II thru VII of petitioners complaint filed in the instant case. Understandably, when a state actor intentionally and knowingly deprive a minority plaintiffs of their constitutional rights in a unconstitutional manner demonstrated in the instant case he exercises no discretion or individual judgment; he acts no longer as a state actor but as a minister of his own prejudices. In *Pierson v. Rav*, 386 U.S. 547, 567, the 42 congress way back in 1871 knew precisely that state actors had openly deprived minority plaintiffs of this nation of their Constitutional Rights, and therefore, Congress knowing that state judiciaries did and would continue depriving rights, provided the words "every person" in the

very act of §1983, so that anyone suffering deprivation of rights by state actors acting under color of state law had redress in Federal Court including minority plaintiffs Davis and Chew as approximate result of the unconstitutional deprivations which petitioners evidently suffered in lower state and district court as repeatedly uttered within Dkt. No. 74 and in petitioners/appellants briefs filed in this court. Indisputably, said complaint for damages and injunctive relief filed by minority petitioners Davis and Chews' was properly and timely filed in the lower district court on the date of June 23, 2005. Moreover, the Supreme Court of the United States have upheld 42 U.S.C § 1983 court cases initially filed the in lower district court first. Accordingly, 42 U.S.C § 1983 merely creates a "cause of action" for which relief may be granted. In fact, § 1983 is supplemental remedy; conclusively, there is no requirement to exhaust state remedies before pursuing a § 1983 claim in federal court. Emphasis added, § 1983 is not a jurisdictional statue [sic] however it has a jurisdictional counterpart in §28 U.S.C. 1343(a)(3), and in 1331 (as set fourth [sic] within the jurisdiction section of petitioners complaint, Dkt. No. 74) which gives district courts original and subject-matter jurisdiction of any civil action authorized by law to be commenced by any person . . . (and to redress the deprivation, under color of any State law, statue [sic], ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the constitution of the United States. . . . . As misapprehended by this court and exclusively repeatedly alleged within petitioners complaint for damages and injunctive relief, said appellees licensed by the Florida bar of the state of Florida insinuated in a symbiotic relationship with appellees/state actors of the state of Florida committed said unconstitutional violations in their individual capacity thereby violating

petitioners constitutional rights not limited to the ways utterly described within the very act of 42 U.S.C § 1983 and within the "Fifth Amendment" of count IV of petitioners complaint. Specifically, as maintained by petitioners, the deprivation of petitioners life, liberty, and property as clearly set fourth [sic] within counts 1 thru 7 of petitioners complaint, (Doc. 74). Petitioners further argue, in the instant case, the unconstitutional wrongs committed by said appellees and appellees in their individual capacity have been shielded by the lower courts and within this court's above referenced non-published decision which advertently mention appellees Jones, Sperl, and Neitzke but cannot conceivably be relied upon by a higher court as appellees therein are granted superior status, free allowance of additional time without Appellee having even request such an extension of time to file an appellate brief, and sua sponte defense by this 11th U.S Court Of Appeals predictably to be set free to commit more unconstitutional wrongs against minority petitioners/appellants.

CONCLUSION

For the foregoing reasons, petitioners petition disclosing the "Rooker-Feldman Doctrine" was narrowed by the "Supreme Court of The United States" (appendix-B), and the incorporated correspondence dated April 7, 2005 which petitioners received from the "Supreme Court of The United States" further directing petitioners to the lower court for rehearing is warrant that this court's decision dated January 20, 2006 appendix hereto should be vacated

and furthermore petitioners case should be rescheduled for argument.

Respectfully Submitted,

Charlie H. Davis
Leyda E. Chew
1934 S. Old, Apopka Rd.
Apopka, Florida 32703

CERTIFICATE OF COMPLIANCE

Petitioners Davis and Chew hereby certifies that this Petition complies with the volume limitations set forth in rule 32(a)(7)(B), Fed. R. App. P. . This brief contains 1583 words.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing has been sent via certified mail to the following parties on this 7th day of August 2006.

Charlie H. Davis
Leyda E. Chew
1934 S. Old, Apopka Rd.
Apopka, Florida 32703

APPENDIX A

United States Court of Appeals
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

July 20, 2006

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 05-16599-DD
Case Style: Charlie H. Davis v. Hon. George Winslow, Jr.
District Court Number: 05-00416 CV-ORL-28-DAB 0

Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to Rule 36 of Federal Rules of Appellate Procedure. Fed. R. App. P. 39, 40 and 41, and the corresponding circuit rules govern cost and attorney's fees, petitions for rehearing and mandate, respectively.

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filing, a petition for rehearing or rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. The timing, format and content of a motion for attorney's fees and objection thereto is governed by 11th Cir. R. 39-22 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entries listed on all certificates previously filed by any party in the appeal. See. 11th Cir. R. 35-5(k) and 40-1.

Counsel appointed under the CRIMINAL JUSTICE ACT must file a CJA voucher claiming compensation for time spent on appeal no later than 60 days after either issuance of mandate *or* filing with the U.S. Supreme Court of a petition for a writ of certiorari (whichever is later) .

Pursuant to Fed. R. App. P. 39, Cost taxed aginst the Plaintiffs-Appellants.

For Questions concerning the issuance of this court's decision, please call (404) 335-6161, (404) 335-6151 or the "Reply To" number shown below. For all other questions, please call Jackson, Elora (404) 335-6173.

Sincerely,

THOMAS K. KAHN, Clerk

Reply To: Toni Harper (404) 335-6147

APPENDIX B

NSCLC

National Senior Citizens Law Center

News Item

April 11, 2005

Supreme Court Narrows Rooker-Feldman Doctrine

A unanimous Supreme Court has held that the *Rooker-Feldman* doctrine "is confined to cases of the kind from which the doctrine acquired it's name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review

and rejection of those judgments" *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, No. 03-1696, -S.Ct.-, 2005 WL 711586 (Mar. 30, 2005) (emphasis added). The doctrine dose [sic] not prevent a federal court from exercising concurrent jurisdiction when parallel proceedings are filed in state and federal court, and federal jurisdiction, once acquired, dose [sic] not "vanish" if the state action reaches a judgment before the federal action does. That is a matter of preclusion of law.

Facts/procedural History. The case involved a royalty dispute arising out of a joint venture between subsidiaries of Exxon Mobil and SABIC, a corporation owned largely by the Saudi Arabian government. SABIC first filed a declaratory judgment action in state court, basing jurisdiction on 28 U.S.C. § 1330, involving actions against foreign states. SABIC moved to dismiss the federal action on other grounds, lost, and took an interlocutory appeal to the Eleventh Circuit. Before that appeal was heard, the state court reached judgment in favor of Exxon Mobil. The Eleventh Circuit, on it's [sic] own motion, dismissed the federal action under the *Rooker-Feldman* doctrine. The Supreme Court reversed.

The *Rooker-Feldman* doctrine takes it's [sic] name from *Rooker v. Fedelity* [sic] *Trust Co.*, 263 U.S. 413 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983) In those cases, the court held that 28 U.S.C. § 1257, which grants appellate jurisdiction to the supreme court to review final state court judgments, is a limitation on the jurisdiction of the lower federal courts.

Supreme Court Opinion. In *Exxon Mobil*, the Supreme Court noted that *Exxon Mobil* was not trying to overturn an adverse state court judgment, as in *Rooker* and

Feldman, but merely filed the federal action "to protect itself in the event it lost in state court on grounds (such as the state statue [sic] of limitations) that might not preclude relief in federal venue. "While the Eleventh Circuit criticized this strategy as "insurance policy" against an adverse state court judgment, the supreme court found that "[t]here is nothing necessarily inappropriate, however, about filing a protective action" While comity, abstention and preclusion principals may apply in those circumstances, *Rooker-Feldman* is a "limited" restriction on otherwise proper subject-matter jurisdiction and "is not triggered simply by the entry of judgment in state court". . . . .

APPENDIX C

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

April 7, 2005

Leyda E. Chew
1067 Kelly Creek Circle
Oviedo, Florida 32765

Middle District of Florida
Exhibit "18-A"
Date Identified June 23, 2005

RE: Chew v. Marriott, et al

Dear Ms. Chew:

Your application for injunctive relief received March 29, 2005 is herewith returned for the following reason(s):

You failed to comply with Rule 23.3 of this Court which requires that you first seek the same relief in the appropriate lower court's and attach copies of the orders from the lower court's to your application filed in this court.

You failed to identify the judgment you are asking the Court to review and to append a copy of the order or opinion as required by Rule 23.3 of this Court's Rules.

Sincerely,
William K. Suter, Clerk
By:
Troy D. Cahill

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CHARLIE H. DAVIS, CASE NO: 6:05-CV-00416-JA-DAB
LEYDA E. CHEW,
individually & as the biological father and
next of friend of
LEQUINDRA KEION DAVIS (now age 19)
& KAITRONDRA CHALISE DAVIS (now age 20)

Plaintiffs

v. **JURY TRIAL DEMANDED**

HON. JOHN TANNER, of the State of Florida, in his individual capacity
HON. ELLIOTT SROVES, of the State Of Florida, in her individual capacity
HON. GEORGE WINSLOW JR., of the State of Florida, in his individual capacity
RICHARD S. GRAHAM, of the State of Florida, in his individual capacity
BARBARA FANCHER JONES, of the State of Florida, Department Of Revenue, in her individual capacity
JOHN BOLTON, of the State of Florida, Department Of Revenue, in his individual capacity
attorney, **KATHY A. JIMENEZ**, of the State of Florida, Department of Highway Safety & Motor Vehicles, in her individual capacity
attorney, **RICHARD E. BROWN**, licensed by the Florida bar of the State of Florida,
attorney, **ERIC K. NEITZKE**, licensed by the Florida bar of the State of Florida,
attorney, **DONNA S. ZMIJEWSKI**, of the State Of Florida, in her individual capacity,
clerk of the court, **DIANE M. MATOUSEK**, of the State Of Florida, in her individual capacity, and
HARRY SPERL, including **[All]** others committed to the destruction of Plaintiffs First Amended Complaint For Damages & Injunctive Relief.

Defendants,

PLAINTIFF'S FIRST AMENDED COMPLAINT FOR DAMAGES & INJUCTIVE [sic] RELIEF

(Filed June 23, 2005)

Comes Now the **Plaintiffs, Charlie H. Davis, Leyda E. Chew** individually and as the biological father and next of friend of **Lequindra Keion Davis** & **Kaitrondra Chalise Davis** pursuant to this court's order **(doc. 54)** dated **May 27, 2005**, and **Fed. R. Civ. P. 17(c)** and hereby amend Plaintiffs First **[Amended]** Complaint For Damages and Injunctive Relief hereby suing defendants **Hon. John Tanner, Hon. Elliott Sroves, Hon. George Winslow Jr., Hon. Richard S. Graham, Barbara Fancher Jones, John Bolton, Kathy A. Jimenez, Donna S. Zmijewski, Diane M. Matousek** of the State Of Florida, in their individual capacities, including attorneys **Richard E. Brown**, & **Eric K. Neitzke** licensed by the Florida bar of the State Of Florida, and Chew's former husband **Harry Sperl** and in support thereof would show the following:

Jurisdiction

This claim arises under Title 28 of the Civil Rights Act of 1964; therefore the U.S. District Court, Middle District Of Florida has original jurisdiction of any civil action authorized by law to be commenced by any person and subject matter jurisdiction under 28 U.S.C. §1343(a)(1)(2)(3) and 1331.

Introductory Statement

This is an action for damages that exceed $8,000.00 (eight thousand dollars), exclusive of cost, interest, and attorney fees. At all times material to this action, the plaintiffs all reside in the State of Florida and their correct

mailing address of record is 1934 S. Old, Apopka Rd., Apopka Florida 32703.

This is a lawsuit charging defendants with the repeated false arrest and the imprisonment of plaintiffs Charlie H. Davis (hereinafter Davis), and Leyda E. Chew (hereinafter Chew), while unconscionably and unilaterally violating pro'se [sic] plaintiffs federal and constitutional rights to life, liberty and property without their consent as well as the violation, circumvention and deprivation of court orders and court ordered agreements which plaintiffs received from the lower state court magistrates earlier and was held in their possession at the time said deprivations occurred. Clearly, these earlier orders received in lower state court strictly prohibited such actions by defendants herein whom the plaintiffs contend were not acting in their official capacity but were acting in their individual capacity at the time said violations occurred. More, these erroneous acts and omissions by said defendants below were not only unconstitutional but they were contrary to the "oath" they took to up hold [sic] the constitution of the United States while employed by the State Of Florida, in a symbiotic relationship with defendants Richard E. Brown, Eric K. Neitzke and their connection with plaintiff Chew's former husband defendant Harry Sperl, a citizen of Germany residing in the U.S.

Plaintiff Davis, a African American male, the father of Lequindre and Kaitrondra Davis, and the fiancé of Plaintiff Chew, a Chinese Asian American female were both repeatedly subjected to false arrests and imprisonment as defendants herein acted under color of state law. Specifically, on[5] April 4, 1991 plaintiff Davis received a certain

[5] exhibit "1A"

report entitled "report and recommendation of hearing officer" which encompassed a "payroll deduction order" within the subject report and at the time was executed by judicial hearing officer defendant George Winslow Jr. (hereinafter defendant Winslow) pursuant to a motion for contempt filed by defendant[6] Barbara Fancher Jones (hereinafter defendant Jones), an attorney for the state of Florida, department of revenue (hereinafter "the DOR"). Subsequently, plaintiff Davis was then ordered to resume his regular child support payments at the rate of **$30.00** per week and for his employer to deduct an additional **$10.00** per week to go toward the purported existing child support arrearage amount of $7,452.01 commencing April 5, 1991. As ordered by defendant Winslow, plaintiff Davis respectfully commenced to remitting said amount to "the DOR".

However, Kaitronda and Lequindra Davis never received the child support payments or arrearage prior to the child support emancipation date of October 2, 2002 for Kaitrondra Chalise Davis and September 12, 2003 for Lequindre Keion Davis.

Among other things, it is undisputed that the alleged arrearage amount reported by defendant Jones during the above April 4, 1991 contempt hearing and plaintiff Davis weekly child support amounts was paid by payroll deduction from plaintiff Davis employer, the Orange County School Board from – 1990 to 1998, and by plaintiff Davis[7] IRS refunds concurrently intercepted by "the DOR" from

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[6] Barbara Fancher Jones was served copies of the subject complaint at her last known address of record repeatedly (222 Weber St., Orlando, Florida 32803), but has refused to answer

[7] exhibit "2A, B, C, D, E"

1990 to 1994, then from June 1998 to April 1999 said child support obligation of plaintiff Davis was satisfied by payments from plaintiff Davis[8] "unemployment compensation benefit disbursement receipts" equivalent to thirty-two percent of his unemployment funds, as well as the money order payments received by defendant Jones of "the DOR". As it turned out, the April 4, 1991 "report and recommendation of hearing officer" which plaintiff Davis received from defendants Winslow and Jones was fraudulent and unconscionable. In short order, Kaitrondra and Lequindre never received the child support payments from "the DOR" as payments on the required support pursuant to Title 45 of the code of federal regulations. Defendants Winslow and Jones of "the DOR" owe plaintiff Davis the child support amount from 1990 to the above child support emancipation dates for Kaitrondra and Lequindra Davis including the overpayments with interest. Moreover, upon Plaintiff Davis receipt of the honorable Judge Jefford Miller's order dated[9] August 18, 2000, defendant Jones was then ordered to provide the Ninth Judicial Circuit Court and plaintiff Davis a copy of their certified arrears audit disclosing "the DOR's" accounting of plaintiff Davis child support and payment history. However, contrary to procedural due process of the matter or Plaintiff Davis ever receiving the certified arrears audit from defendant Jones as ordered by the court, defendants Winslow, and Jones in their individual capacities maliciously ordered the[10] first driver license suspension and the[11] false arrest of

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[8] exhibit "3A"

[9] exhibit "4A", the Hon. Jefford Millers Order

[10] exhibit "5A", the September 21, 2000 DHSMV suspension

[11] exhibit "6A", the December 08, 2000 & exhibit "7A" January 25, 2001, the Orange County Sheriff Department Arrest Affidavit

plaintiff Davis. Not once, but twice prior to plaintiff Davis or the court ever receiving the certified arrears audit as ordered by the court.

Until[12] January 3, 2001, defendant Jones had refused to provide plaintiff Davis a copy of the subject certified arrears audit. Worse, upon receipt of the certified arrears audit it was found to be unlawful, unfair, fraudulent and unconscionable. Specifically, the amounts of plaintiff Davis Federal income tax and unemployment compensation funds concurrently intercepted by defendant Jones not only failed to appear within defendant Jones certified arrears audit but the tiny amounts which defendant Jones reported was never disbursed to Kaitrondra or Lequindre Davis.

Nevertheless, a Ninth Judicial Circuit Court Judge "final order" dated[13] June 27, 2002 not only ordered "the DOR" to repay plaintiff Davis but the Judge also ordered the DOR's participation in the[14] case was to end.

However, In "the DOR's" continued violation and relentless pursuit of their unfounded actions as well as their deprivation of the order received by plaintiff Davis dated June 27, 2002, defendant Jones of "the DOR" refused to cease and desist their wrongful actions and erroneous collection efforts against minority plaintiff Davis as she and defendant Winslow repeatedly violated the order including the oaths they took to uphold the

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[12] exhibit "8A", January 3, 2001 Certified Arrears Audit received from defendant Jones

[13] exhibit "9A", June 27, 2002 Order

[14] the State Of Florida, Department Of Revenue obo Delois Neal v. Charlie H. Davis DR86-3511

constitution while clearly acting outside the scope of their judicial and official capacity in their defiant refusal to cease and desist their erroneous collection efforts against plaintiff Davis, and as they continued to hold plaintiff Davis in contempt with a myriad of threats, false complaints, false reports to credit bureaus, erroneous drivers license suspensions and other actions that were not only outside the scope of their judicial and official capacities but were utterly unconstitutional and unconscionable. Thus, defendants Winslow and Jones actions were unlawful, fraudulent, unconscionable, and outside the scope of their judicial and official capacities - and furthermore was in violation of the oaths they took to uphold and defend the constitution of the United States. In doing so, defendants, Winslow and Jones not only violated the final order dated June 27, 2002, but they also violated plaintiff Davis first, fifth and fourteenth amendment rights expressly guaranteed to plaintiff Davis under the constitution of the United States including Title 4 §101. More, upon the recent March 17, 2005 filing of this instant suit by the plaintiffs here in the District Court, defendants Winslow, Jones,[15] Elliott Sroves (hereinafter Sroves), and[16] John Bolton (hereinafter Bolton), repeated the deprivation and circumvention of the underlying order dated June 27, 2002 by compelling plaintiff Davis to attend their erroneous March 21, 2005 contempt hearing held contrary to the order dated June 27, 2002 and after plaintiff Davis request for judicial notice of the matter was denied.

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[15] a judicial hearing officer for the Ninth Judicial Circuit Court

[16] of the state of Florida department of revenue

At the time of the earlier January 6, 2004 denial, plaintiff Davis was coerced and compelled to sign a document ordering him to pay "the DOR" the newly resurrected child support arrearages in the amount of $7,172.13 or be jailed. This newly alleged amount was not only contrary to "the DOR's" own certified arrears audit dated January 3, 2001 which plaintiff Davis received from defendant Jones earlier, but amazingly, this new erroneous amount was also in circumvention of the earlier final order dated June 27, 2002 which plaintiff Davis received just prior to defendant Jones[17] November 20, 2003 submission of the second erroneous suspension of plaintiff Davis driver's license to the State Of Florida, Department Of Highway Safety & Motor Vehicles (hereinafter DHSMV). Here, plaintiff, Davis allegations directed to defendants Kathy A. Jimenez and Donna S. Zmijewski conclude these defendants too were knowledgeable and received several correspondences form [sic] plaintiff Davis as they sought false prosecution charges against plaintiff Davis in there [sic] individual capacity.

Thus, defendants Winslow, Jones, Stroves [sic], Bolton, Jimenez, and Zmijewski took an oath to uphold and defend the constitution of the United States then repeatedly violated that oath in pursuant of their unfounded actions outside the jurisdiction of their judicial and official capacity in order to enforce false judgments upon plaintiff Davis to repeatedly pay child support arrearage amounts which defendant Winslow, Jones, Sroves and Bolton in there [sic] individual capacity

[17] exhibit "10A", the November 20, 2003 Suspension

conspired and manufactured in the amount of[18] $7,172.13. While defendants Jimenez, and Zmijewski in there [sic] individual capacity maliciously manufactured allegations causing plaintiff Davis drivers license to remain utterly void. In failing to perform their duties pursuant to the oath they took, then compelling plaintiff Davis to appear at the March 21, 2005 hearing for contempt, traffic court and other hearings, which subjected plaintiff Davis to the same offences to be put in jeopardy twice for a crime which plaintiff Davis never committed. In doing so, defendants, Winslow, Jones, Sroves, Bolton, Jimenez, and Zmijewski in their individual capacity violated plaintiff Davis first, fifth and fourteenth amendment rights expressly guaranteed to plaintiff Davis under the constitution of the United States. Notwithstanding the circumventions of the order dated June 27, 2002, In a remarkably short order, defendants Winslow and Jones maliciously manufactured another accusation against plaintiff Davis. Specifically, on June 27, 2002 upon receipt of the final order ending case #DR86-3511, plaintiff Davis was then served a summons and erroneous[19] complaint by the Orange County Sheriff Department. Growing increasingly hostile, defendants Winslow and Jones suddenly manufactured a new case against plaintiff Davis alleging Davis to be the father of a child or children from a[20] woman plaintiff Davis never met or even heard of and whom in fact was deceased.

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[18] exhibit "11A", the March 21, 2005 "report and recommendation of hearing officer" Winslow, Sroves,

[19] exhibit "12A" the June 27, 2002 Benita Carter Complaint

[20] "the DOR" on behalf of Benita G. Carter v. Charlie H. Davis,# DR02-6189", Ninth Judicial Circuit Court

This action however was latter [sic] dismissed one year latter [sic] on June 3, 2003 by the honorable Robert M. Evans after months and months of court hearings and appearances in court by plaintiff Davis and plaintiff Davis objection to involuntary DNA testing which defendants Winslow and Jones insist they receive based on their wrongful indisputably false suppositions. Thus, defendants Winslow and Jones actions were outside the jurisdiction of their judicial and official capacity as they repeatedly compelled plaintiff Davis to appear at the Benita G. Carter child support hearings which they maliciously manufactured thereby violating Title 4 § 101 and plaintiff Davis first, fifth and fourteenth amendment rights expressly guaranteed to plaintiff Davis under the constitution of the United States.

Relative to Plaintiff Chew and interrelated, Plaintiff Davis, whom appeared as the[21] affiant in the earlier February 13, 2004 complaint filed by plaintiff Chew here in the[22] U.S. District Court, Middle District of Florida, and in the lower Volusia County Florida court was thereafter served an erroneous "petition for protection against repeat violence" maliciously filed by defendant Harry Sperl (hereinafter defendant Sperl) on January 27, 2005 in the lower Circuit Court Of The Seventh Judicial Circuit, In And For Volusia County, Florida. During the recent February 9, 2005 court hearing held in front of the honorable Richard E. Graham (hereinafter defendant Graham)

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[21] exhibit "13A", the November 18, 2003 affidavit Of Charlie H. Davis

[22] the U S. District Court, Middle District Of Florida 6:04-CV-194-ORL-31JGG & the Seventh Judicial Circuit, In And For Volusia County, Florida 99-30209 FMIC-30

pursuant to the matter, plaintiff Davis maintained the erroneous petition filed by defendant Sperl was in retaliation to plaintiff Davis appearing as the affiant in a concurrent case filed by plaintiff Chew naming defendant Sperl as a defendant which at the time was on petition for Writ Of Certiorari at the United States Supreme Court. Whereby, a correspondence dated[23] August 19, 2004 which plaintiff Davis and Chew received from Lt. Dale Coleman of the local Oviedo Police Department not only confirmed plaintiff Davis was correct in his assertions but said correspondence contradicted defendant Sperl's petition and the statements he and his attorney defendant Eric K. Neitzke (hereinafter defendant Neitzke) made under oath during the February 9, 2005 hearing held in front of defendant Graham and which defendant Sperl's gave in his petition under oath as they committed to certain factual false statements and fabricated lies as to their erroneous account of what transpired on the date of July 3, 2004 involving plaintiff Davis, and defendant Sperl involving the Oviedo Police Department.

Thus, defendant[24] Sperl's "petition for protection against repeat violence" dated January 27, 2005 represented by defendant Neitzke in front of defendant Graham on February 9, 2005 was not only malicious but it was fraudulent. And furthermore violated plaintiff Davis first, fifth, eleventh, and fourteenth amendment rights expressly guaranteed to Plaintiff Davis under the constitution of the United States. Defendants Sperl and Neitzke owe Plaintiff Davis punitive damages. Moving rapidly,

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[23] exhibit "14A", the Lt. Dale Colman correspondence dated August 19, 2004

[24] exhibit "15A", defendant Sperl January 27, 2005 Petition

while fully appraised of the August 19, 2004 Lt. Dale Colman correspondence contradicting defendant Sperl's petition, defendant Graham in his individual capacity granted defendant Neitzke and Sperl's "temporary petition for injunction" anyway, after both defendants told preposterous lies under oath. Then within the same day, defendant Graham in his individual capacity executed and delivered to plaintiff Davis a copy of the[25] "final judgment of injunction". When, there was no complaint filed with any third party or committed acts of violence or repeated violence by plaintiff Davis against defendant Sperl. Further, plaintiff Davis motion for rehearing of the matter which included a second copy of Lt. Dale Coleman's August 19, 2004 correspondence was[26] denied. In doing so, defendant Graham violated plaintiff Davis first, fifth, eleventh and fourteenth amendment rights expressly guaranteed to plaintiff Davis under the constitution of the United States. Defendant Graham owes plaintiff Davis punitive damages. Unequivocally, the[27] U.S. Supreme Court correspondence dated April 7, 2005 directed plaintiff Chew to first apply for emergency injunctive relief from defendants Sperl and Richard E. Brown (hereinafter Brown) in the lower courts including the U.S. District Court as plaintiff Chew fought to file her earlier petition for[28] Writ Of Certtiorari [sic] naming defendants Sperl, Neitzke, Brown and Diane M. Matousek (hereinafter defendant Matousek) of Volusia County as defendants therein.

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[25] exhibit "16A", defendant Grahams February 9, 2005 final order

[26] exhibit "17A", defendant Grahams February 14, 2005 denial

[27] exhibit "18A", the April 7, 2005 U.S. Supreme Ct. Corr.

[28] U.S. District Court, Middle District Of Florida 6:04-CV-194-ORL-31JGG

In the instant case, plaintiff Chew is requesting the restored custody of her minor son Karl J. Sperl after defendants Sperl, Neitzke, Brown, and Matousek in a symbiotic relationship maliciously committed several unconstitutional violations before and during the deprivation of the[29] September 12, 2002 order and agreement held in plaintiff Chew's possession at the time said deprivation occurred and after plaintiff Chew received several bitter denials in State Court while attempting to enforce and modify the subject order, these denials were unconscionable and contrary to the initial agreement plaintiff Chew received earlier. However, in a remarkably short order, defendants Neitzke, Sperl, Brown and Matousek and the honorable John Tanner (hereinafter defendant Tanner) in their individual capacity circumvented the order and agreement dated[30] September 12, 2002 which plaintiff Chew had previously received from the honorable Judge Rouses in the lower State court. Furthermore, said order and agreement expressly enjoined a April 16, 2002 mediation settlement agreement between Plaintiff Chew and defendant Sperl. To the contrary, defendants Sperl, Neitzke, and Brown repeatedly violated the subject order and agreement by the filing of several erroneous[31] motions to hold former wife in contempt dated August 5, 2003 and the recent erroneous false charge of "fraud-insuff funds check-stop pay wit [sic] defraud less than $150.00" for concocted unpaid mediation expenses filed by defendant Brown contrary to the subject order and agreement latter

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[29] exhibit "19A" the September 12, 2002 Order & Agreement

[30] Harry Sperl v. Leyda E. Chew Volusia County Seventh Judicial Circuit, Case #99-30209-FMIC

[31] exhibit "20A" defendant Neitzke August 5, 2003 Motion To Former Wife In Contempt

[sic] causing the[32] March 20, 2003 unlawful false arrest and imprisonment of plaintiff Chew after said defendants maliciously retaliated against Chew for naming them as defendants.

More, the September 12, 2002 order and agreement clearly disclose (1) only the "health insurance and unpaid medical expenses" was deemed to be enforceable by contempt actions and (2) that the parties shall each bear their own attorney and cost, and shall each be responsible for *one-half the cost of mediation.* Whereby, on September 12, 2002 plaintiff Chew and defendants Sperl, Neitzke, and Brown was delivered an Order Of Modification Of Final Judgment Of Dissolution Of Marriage encompassing said agreement and the terms therein which was executed by the honorable Robert K. Rouse and delivered to plaintiff Chew including defendants Sperl, Neitzke and Brown on September 12, 2002. In violation of said agreement, defendants further violated plaintiff Chew first, fifth, fourteenth and eleventh amendment rights as expressly guaranteed to plaintiff Chew under the constitution of the United States. Defendants Sperl, Neitzke and Brown owe Plaintiff Chew attorney fees, punitive damages, the annulment of said agreement including the restoration and custody of minor son Karl J. Sperl. Diane M. Matousek, (hereinafter, defendant Matousek), whom also appeared in Plaintiff Chew's earlier lawsuit as a defendant amazingly reappeared in retaliation against plaintiff Chew in a manner to resurrect the expired unfounded erroneous worthless check claim which was purportedly

[32] exhibit "21A" the March 20, 2005 Arrest Report

first filed by defendant Brown on[33] June 23, 2004 under the case number of MM0409845A01 but was found to have no merit then after the expiration of the statue [sic] of limitations had tolled, defendant Matousek in her individual capacity re-filed the erroneous worthless check claim under the[34] new case number of 04-340140FAES thereby excluding Plaintiff Chew evidence entered in the earlier court file, a "double jeopardy" attempt which included defendants Matousek and John Tanner intent to prosecute plaintiff Chew under the new erroneous false worthless check charge. Plaintiff, Leyda E. Chew further asserts Hon. John Tanner (hereinafter Tanner) had knowledge and furthermore had received several via certified mail-pieces disclosing plaintiff Chew never "stopped a check payment with intent to defraud". Moreover, the notice of arraignment hearing dated March 29, 2005 retrieved from the lower court file disclose defendants Matousek and Tanner in the their individual capacity was not only willing to prosecute defendant Chew under the erroneous false check charges but they were also willing to engage in malicious prosecution in pursuit of a ten year prison sentence against plaintiff Chew while acting outside their judicial and official capacity. Clearly, Matousek and Tanner repeatedly violated plaintiff Chew first, fifth, fourteenth amendment rights as expressly guaranteed to plaintiff Chew under the constitution of the United States.

Notwithstanding the above, nor the existing symbiotic relationship between these defendants of the State Of

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[33] exhibit "22A", defendant Brown June 23, 2004 initial worthless check claim #MM0409845A01

[34] exhibit "23A" the State Of Florida v. Leyda E. Chew 04-340140FAES A/F/ Stopping Pymt. / Intent T / Def.

Florida acting in there individual capacity and the other defendants licensed by the Florida bar of the State Of Florida in their symbiotic relationship in concert with said defendants. The, plaintiffs allege defendants named herein motives was improper, coerced, encouraged and worst of all offensive to plaintiffs Davis and Chew first, fifth, eleventh and fourteenth amendment rights expressly guaranteed to plaintiff Davis under the constitution of the United States.

COUNT I

(CIVIL RIGHTS VIOLATIONS – U.S. CONSTITUTION)

CAUSE OF ACTION

Plaintiff, Davis and Chew re-alleges and incorporates by references paragraphs one thru thirty-seven as if fully alleged herein incorporating defendants Tanner, Sroves, Winslow, Graham, Jones, Bolton, Jimenez, Brown, Neitzke, Zmijewski, and Matousek of the State of Florida, and Sperl a citizen of Germany. Pursuant to title 42 U.S.C., section 1983, the United States constitution prohibits defendants, while acting under color of state law, within the jurisdiction thereof from the deprivation of any rights, privileges, or immunities secured by the constitution and laws. More, defendants such as these herein shall be liable to the party injured in an action at law. Plaintiffs maintain, these defendants engaged in extreme, malicious, and outrageous conduct for the purpose of causing the plaintiff's to suffer and suffer deprivations. As a proximate result, plaintiffs lost income which had accrued to them through the last ten years of employment, real-estate and suffered pain and suffering, humiliation,

embarrassment, mental and emotional anguish and loss of driving privilege. Further, courts have held that defendants herein are persons within the meaning of section 1983 and does not possess immunity from such a 1983 actions while acting in their individual capacity and outside the scope of their judicial and official capacity.

In the instant case, these acts were committed by said defendants while acting under color of state law and while in connection with defendant Sperl as they violated plaintiff Davis and Chews constitutional rights as described herein and by treating plaintiffs different from similarly situated white pro'se [sic] litigants through there [sic] utterly unwarranted and unjustified abusive actions described herein, as well as through their abuse of due process in its treatment of plaintiffs assertion of their parental rights and interest and their initiation of efforts to effect termination of plaintiffs right to freedom in their reckless disregard to plaintiff's federal and constitutional rights.

Wherefore, the plaintiffs seek Injunction, restoration of minor son Karl J. Sperl, lost income, lost attorney fees, punitive damages, the reinstatement of plaintiff Davis driver's license, recovery of his un-disbursed child support payments from 1990 to the emancipation date for Kaitrondra and Lequindra Davis, including interest, IRS intercepts, arrearages, unemployment funds 32%, and such other damages as this Court deems appropriate.

COUNT II

(VIOLATION OF PLAINIFFS [sic] CONSTITUTIONALLY)

(PROTECTED FIRST AMENDMENT RIGHT)

Plaintiff, Davis and Chew re-alleges and incorporates by references paragraphs one thru thirty-seven as if fully alleged herein incorporating defendants Tanner, Sroves, Winslow, Graham, Jones, Bolton, Jimenez, Brown, Neitzke, Zmijewski, Matousek, and Sperl a citizen of Germany. Under the first amendment, defendants was prohibited from abridging plaintiffs petitions for redress of grievances. Defendants, maliciously engaged in the conduct as described herein for the purpose of causing defendants to suffer.

Alternatively, defendants recklessly disregarded the likelihood that plaintiffs would suffer such distress. As a proximate result, plaintiffs were prohibited and denied their right for redress of grievances in state court. Wherefore, the plaintiffs seek Injunction, restoration of minor son Karl J. Sperl, lost income, lost attorney fees, punitive damages, the reinstatement of plaintiff Davis driver's license, recovery of his un-disbursed child support payments from 1990 to the emancipation date for Kaitrondra and Lequindra Davis, including interest, IRS intercepts, arrearages, unemployment funds 32%, and such other damages as this Court deems appropriate.

COUNT III

(Wrongful Breach Of Agreement)

Plaintiff, Leyda E. Chew, re-alleges, and incorporates by reference paragraph twenty-six thru thirty-seven as

fully alleged herein incorporating defendants Sperl, Neitkze and Brown.

Plaintiff Chew, through income deduction order from her current employer never failed to pay a child support payment or provide health insurance coverage for minor son Karl J. Sperl after execution and receipt of the honorable Robert K. Rouse order dated September 12, 2002 relative to former husband defendant Sperl, his attorney defendant Neitzke, and their mediator defendant Brown all of Volusia County Florida.

From September 12, 2002 said defendants, Neitzke, Sperl, and Brown engaged in extreme and outrageous conduct of breaching the existing mediation agreement incorporated into the September 12, 2002 Order Of Modification Of Final Judgment Of Dissolution Of Marriage governing the agreement between plaintiff Chew and defendant Sperl in ways not limited to the following (1) by the filing of August 5, 2003, motion to hold former wife in contempt, (2) by misuse of the mediation process to constantly stalk and harass plaintiff Chew and then retaliating against plaintiff for simply asserting her constitutional and fundamental rights pursuant to the existing agreement, (3) by using coercive methods, to obtain coerced and forced judgments against plaintiff Chew to deprive Chew of her rights as a mother, when no crime existed, (4) by never providing plaintiff Chew their issues for resolution as mandated within the agreement and (5) the false arrest of plaintiff Chew initiated by defendant Brown when the agreement clearly stated plaintiff Chew was only obligated to pay *"one-half the cost of mediation"*. Said defendants engaged in this conduct for the purpose of causing plaintiff Chew to suffer. As a direct result, minor son Karl Sperl, as a minor dependant of

plaint[illegible]hew had a right to her comfort, affection, instructio[illegible], guidance, and support further the element of consortium included but were not limited to employment-based health insurance benefits of plaintiff Chew, her monthly child support payments made based on income and other enhancements, activities, gifts, and other blessings bestowed upon minor dependant Karl J. Sperl. Wherefore, plaintiff Chew seeks injunction, punitive damages, lost attorney fees, the restored custody of her minor son Karl Sperl, including annulment of the exiting Order Of Modification Of Final Judgment Of Dissolution Of Marriage governing said agreement.

COUNT IV

(VIOLATION OF PLAINIFFS [sic] CONSTITUTIONALLY)

(PROTECTED FIFTH AMENDMENT RIGHT)

Plaintiff, Davis and Chew re-alleges and incorporates by references paragraphs one thru thirty-seven as if fully alleged herein incorporating defendants Tanner, Sroves, Winslow, Graham, Jones, Bolton, Jimenez, Brown, Neitzke, Zmijewski, Matousek, of the State of Florida, and Sperl a citizen of Germany. Under, the fifth amendment defendants was prohibited from subjecting plaintiffs to the same offence to be twice to put in jeopardy of life or limb; nor shall plaintiffs be compelled in any criminal case to be a witness against *himself*, nor deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation. Plaintiffs contend, defendants actions as describe [sic] herein were unlawful, unfair, fraudulent, and unenforceable in all respect [sic]. Whereas, defendants repeatedly

compelled plaintiffs to appear during court hearings manufactured by defendants employed by the state of Florida acting in their individual capacity, and plaintiffs further maintain that such hearings were unconstitutional while acting under color of state law. Wherefore, the plaintiffs seek Injunction, restoration of minor son Karl J. Sperl, lost income, lost attorney fees, punitive damages, the reinstatement of plaintiff Davis driver's license, recovery of his un-disbursed child support payments from 1990 to the emancipation date for Kaitrondra and Lequindra Davis, including interest, IRS intercepts, arrearages, unemployment funds 32%, and such other damages as this Court deems appropriate.

COUNT V

(VIOLATION OF PLAINIFFS [sic] CONSTITUTIONALLY)

(PROTECTED ELEVENTH AMENDMENT RIGHT)

Plaintiff, Davis and Chew re-alleges and incorporates by references paragraphs twenty-six through thirty-seven as if fully alleged herein incorporating defendants Graham, Neitzke and Sperl a citizen of Germany. Under the eleventh amendment, defendants use of judicial power of the United States is prohibited to be construed to extent to any suit in law or equity, commenced or prosecuted against one of the United States by citizens or subjects of any foreign state.

An actual controversy has arisen and now exist relating to the rights of and duties of the parties herein and that plaintiffs contend these defendants previous actions were malicious, fraudulent, unenforceable. Plaintiffs maintain

that each previous hearing initiated by defendant Sperl was unlawful, unfair and fraudulent. Whereas, defendants repeatedly compelled plaintiffs to appear during court hearings manufactured by defendants Graham Neitzke and Sperl a non citizen of the U.S, plaintiffs maintain that such hearings were utterly unconstitutional and unconscionable. Wherefore, the plaintiffs seek Injunction, restoration of minor son Karl J. Sperl, lost income, lost attorney fees, punitive damages.

COUNT VI

(TITLE IV VIOLATION)

Plaintiff, Davis and Chew re-alleges and incorporates by references paragraphs one thru thirty-seven as if fully alleged herein incorporating defendants Tanner, Sroves, Winslow, Graham, Jones, Bolton, Jimenez, Brown, Neitzke, Zmijewski, Matousek, of the State of Florida, and Sperl citizen of Germany. Defendants herein acting under color of State swore under oath to support the constitution of the United States and which prohibited defendants from acting out side their judicial and official capacity as the allegations above show they did against plaintiffs. As a direct result, plaintiffs lost income, lost attorney fees, plaintiff Davis driver's license, recovery of his undisbursed child support payments from 1990 to the emancipation date for Kaitrondra and Lequindra Davis, including interest, IRS intercepts, arrearages, unemployment funds 32%.

COUNT VII

(TITLE 42 VIOLATIONS)

(CONSPIRCY [sic] TO INTERFERE WITH CIVIL RIGHTS)

Plaintiff, Davis and Chew re-alleges and incorporates by references paragraphs one through thirty-seven as if fully alleged herein incorporating defendants Tanner, Sroves, Winslow, Graham, Jones, Bolton, Jimenez, Brown, Neitzke, Zmijewski, Matousek, of the State of Florida, and Sperl citizen of Germany. Under Title 42(2) section 1985 defendants were prohibited from intimidating Plaintiff Davis while acting as a witness in the matters of plaintiff Chew, and further prohibited is if two or more conspiring to deter, or intimidate any witness in any court from testifying to any matter pending therein, and absolutely establishes plaintiffs right to witness. As approximate result, plaintiffs have suffered mental and emotional anguish. Wherefore, the plaintiffs seek Injunction, restoration of minor son Karl J. Sperl, lost income, lost attorney fees, punitive damages, the reinstatement of plaintiff Davis driver's license, recovery of his un-disbursed child support payments from 1990 to the emancipation date for Kaitrondra and Lequindra Davis, including interest, IRS intercepts, arrearages, unemployment funds 32%, and such other damages as this Court deems appropriate.

Charlie H. Davis

Leyda E. Chew

1934 S. Old, Apopka Rd.

Apopka, Florida 32703

EXHIBIT "23A"

DIANE M. MATOUSEK
CLERK OF THE CIRCUIT COURT
VOLUSIA COUNTY

CRIMINAL DIVISION

3/29/2005

STATE OF FLORIDA,

vs.

LEYDA ELENA CHEW, CASE NO: 04-340140
A/F/STOPPING PYMT. W/INTENT T/DEF.

NOTICE OF ARRAIGNMENT

The numbered case is set for 3:00 A.M.

WEDNESDAY, APRIL 13, 2005 BEFORE: JUDGE WILL

COURT RM. #4, VOLUSIA CNTY JUSTICE CENTER,

251 N. RIDGEWOOD AVE., DAYTONA BEACH, FLORIDA

All interested parties listed below are hereby notified of said ARRAIGMENT [sic], FAILURE TO APPEAR WILL RESULT IN THIS COURT ISSUING A CAPIAS FOR YOUR ARREST AND/OR SUSPENSION OR YOUR DRIVING PRIVILEDGES [sic], IF APPLICABLE.

COURT COST MAY BE ASSESSED AT TIME OF SENTENCING AND/OR ESTREATURE OF SURTY [sic] BOND AND/OR FORFEITURE OF BOND.

DIANE M. MATOUSEK

DEFENDANT: LEYDA ELENA CHEW,

STATE ATTORNEY: **HONORABLE JOHN TANNER**

EXHIBIT "25A"

ARREST REPORT

SEMINOLE COUNTY SHERIFF'S OFFICE

Agency: Fl590000

Weapon Seized: No Weapon Type: N/A Agency Report: 2005WA001697

Arrest Location: 441 @ PEMBERTO DRIVE, APOPKA FLORIDA 32703

Offense Location: 441 @ PEMBERTO DRIVE, APOPKA FLORIDA 32703

Arrest Date/Time: 3/20/2005 12:30 Jail Date Time: 3/20/2005 12:30

DEFENDANT

CHEW, LEYDA ELENA Race: A Sex: F DOB: 10/8/1962

Height: 503 Weight: 100 Eyes: Brown Hair: Black

Local Address: 1067 Kelly Creek Circle, Oviedo Florida 32765

CHARGE(S)

1. FRAUD – INSUFF FUNDS CHECK – STOP PAYMENT 832.041

BOND: ROR

On 3/20/2005 I made contact with the defendant Leyda E. Chew DOB 10/06/62 on a routine traffic stop. A computer check revealed an active warrant out of Volusia County for Stopping payment with intent to defraud with

a bond of ROR. Teletype confirmed the warrant. Defendant was transported to the JEPCF for processing.

ADMINISTRATIVE SECTION

Sworn to and subscribed before me, the undersigned authority, this 20th day of March 05.

COOK, JAMES MATTHEW,

#297028

EXHIBIT "14A"

OFFICE OF THE STATE ATTORNEY
SEVENTH JUDICIAL CIRCUIT OF FLORIDA
VOLUSIA, FLAGER, PUTNAM &
ST. JOHNS COUNTIES

JOHN TANNER
STATE ATTORNEY

LEYDA E. CHEW

1067 KELLY CREEK CIRCLE

OVIEDO, FLORIDA 32765

STATE OF FLORIDA VS. LEYDA ELENA CHEW

VICTIM: RICHARD E. BROWN

CASE NUMBER: MMO409845A01/
CHECK NUMBER 4827

A Sworn Criminal Complaint has been filed against you for knowingly passing a worthless check. Florida law provides criminal penalties of up to five (5) years in prison and fines of up to $5,000.00 for knowingly passing a worthless check . . . . . .

* * *

EXHIBIT "15A"

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR VOLUSIA COUNTY FLORIDA

HARRY SPERL, CASE NO: 2005 – 3034

Petitioner,

and,

CHARLIE H. DAVIS,

Respondent,

PETITION FOR INJUNCTION FOR PROTECTION AGAINST REPEATED VIOLENCE

I (full legal name) **HARRY UDO SPERL**, being sworn, certify that the following statements are true:

SECTION I. PETITIONER (This section is about you. It must be completed).

1. Petitioner currently lives at: 301 Wavenly Circle, Daytona Beach, Fla, 32118.

Petitioner seeks an injunction for protection on behalf of minor child. Petitioner is the parent or legal guardian of **KARL JOSEF SPERL**, a minor child who is living at home.

2. Petitioner's attorney's name address, and telephone number is:

Eric K. Neitzke 412 N. Wild Olive Ave., Daytona Beach Florida

SECTION II. RESPONDENT (This section is about the person you want to be protected from. It must be completed).

1. Respondent currently lives at:

   1067 Kelly Creek Circle, Oviedo Florida 32765

   Respondent's Driver's License Number is:
   X XXXXXXXXXXX

2. Petitioner has known Respondent since: Dec. 2003

3. Respondent last known place of employment: Garage

   Working hours: Unknown

4. Physical description of Respondent:

   Race: Black Sex: Male, Date of Birth _____

   Height 5' 8", Weight 130, Eye Color Brown, Hair Color: Shaved Head

5. Other names Respondent goes by: Charles, Charlie

6. Respondent's attorney's name, address, and telephone number is: "unknown"

SECTION III. CASE HISTORY AND REASON FOR SEEKING PETITION

1. Has Petitioner ever received or tried to get an injunction for protection against repeat violence against Respondent in this or any other court ? **No**

2. Has Respondent ever received or tried to get a repeat violence injunction for protection against Petitioner ? **No**

3. Describe any other court case that is either going on now or that happened in the past between Petitioner and Respondent: **None**

4. Respondent has directed at least two incidents of "violence" meaning assault, aggravated assault, *battery*, aggravated battery, sexual assault, sexual battery, *stalking*, aggravated stalking . . . . . describe

below: "On 1/17/05, at McDonald's parking lot. Respondent pushed me with his hands against my chest and arms causing me to fall back. At my home on July 3, 2004, Charlie Davis beat on my door, threatened me, yelled at me and cursed at me in front of my son Karl also on other occasions he followed me around in the parking lot of the court house followed, followed me in town, on roadways, in vehicle's, he also threatened me on the telephone and says if I call my son while he is visiting his mom (my x-wife) he will harm me. He dose [sic] all of this in front of my 9 year old son, Karl becomes very upset and frightened".

5. Other prior incidents: Dec. 26, 2004 .....

6. Petitioner genuinely fears repeat violence by Respondent. Explain: ....

7. Additional Information:

   a. Respondent owns, has, and/or is known to have guns or other weapons: **Unknown**

   b. This or prior acts of repeat violence have been previously reported to: **Daytona Beach Police + Oviedo Police**

I understand that by filing this petition, I am asking the court to hold a hearing on this petition, that both the respondent and I will be notified of the hearing, and that I must appear at the hearing. I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this petition and that the punishment for knowingly making a false statement includes fines and or imprisonment.

Dated: 1/27/05

Signature of Petitioner

HARRY UDO SPERL
301 Wavenly Circle,
Daytona, Beach Florida 32118
386-254-8753

STATE OF FLORIDA
COUNTY OF VOLUSIA

Sworn and affirmed and signed before me on 1/27/05 by H. Sperl

DEPUTY CLERK

EXHIBIT "14A"

CITY OF OVIEDO, FLORIDA
400 ALEXANDRIA BOULEVARD,
OVIEDO, FLORIDA 32765

August 19, 2004

Leyda E. Chew
1067 Kelly Creek Circle
Oviedo, Florida 32765

Ms. Chew,

I received your letter and supporting documentation dated August 9, 2004. On page three, paragraph one of your letter states:

Accordingly, I am concerned about the status of a police report filed by officer Edwards and Graham, a copy of your "well being check" policy as well as a transcript of the initial incoming July 3, 2004 phone call received by dispatch at the Oviedo Police Department.

I have researched our records and there are no reports(s) regarding any incident on July 3, 2004 at 1067 Kelly Creek Circle. The only documentation is the computer aided dispatch (CAD) printout which was sent to you in my first letter.

The Oviedo Police Department does not have a written policy on "well being check."

The Oviedo Police Department does not have a transcript or recording of a phone call on July 3, 2004 from Harry Sperl.

If you believe you have been a victim of a crime please contact the Oviedo Police Department at 407-977-6147. An

officer will be dispatched to your residence, whereby a report can be taken and an investigation initiated.

If I can be of further assistance my number is 407-977-6322

Sincerely,

Lt. Dale Coleman

Oviedo Police Department

EXHIBIT "10A

STATE OF FLORIDA

Department of Highway, Safety and
Motor vehicle Division Of Driver's License
Neil Kirkman Building
Tallahassee, Florida 32399-0570

ORDER OF LICENSE, REVOCATION, SUSPENSION, OR CANCELATION [sic]

NOVEMBER 20, 2003

CHARLIE H. DAVIS

1934 S. OLD, APOPKA RD.,

APOPKA, FLORIDA 32703-8014

Driver's License Number 2000-2007 DUP. Class E. XXXX-XXX-XX-XXX-X

Date Of Birth: 8/5/64 Social Security Number XXX-XX-XXXX

THIS IS TO NOTIFTY [sic] YOU THAT YOUR DRIVING PRIVILEDGE [sic] AND REGISTRATION OF ALL VEHICHLES [sic] REGISTRED [sic] IN YOUR NAME ARE SUSPENDED INDEFINITELY, EFFECTIVE 12-10-2003 PURSUANT TO SECTION 322.058, F.S. IN ORDER FOR YOUR DRIVING PRIVILEDGE AND REGISTRATION(S) TO BE REINSTATED, YOU MUST CONTACT THE CHILD SUPPORT ENFORCEMENT OFFICE LISTED BELOW AND OBTAIN AN AFFIDAVIT (DHSMV 73986) STATING THAT YOU HAVE SATISFIED THE REQUIREMENTS OF S. 322. 058, F.S. YOU MUST PRESENT THE ORIGINAL AFFIDAVIT AT ANY DRIVER LICENSE EXAMINING OFFICE FOR REINSTATEMENT.

CONTACT: SUPPORT ENFORCEMENT OFFICE
DEPARTMENT OF REVENUE
400 W. ROBINSON ST.,
SUITE S-509
ORLANDO, FORIDA [sic] 32801

HARRY SCOTT, CHIEF SANDRA C. LAMBERT

EXHIBIT "12-A"

THE STATE OF FLORIDA, DEPARTMENT OF REVENUE, ON BEHALF OF: DARIUS HARDY BY AND THROUGH BENITA CARTER AS NEXT FRIEND, Plaintiff, vs CHARLIE DAVIS, Defendant. /	IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR ORANGE COUNTY, FLORIDA CASE NO. DR 02-6189 CODE ALIAS

SUMMONS

TO: CHARLIE DAVIS

IMPORTANT

A lawsuit has been filed against you. You have 20 days after this Summons is served on you to file a written response to the attached complaint in this Court. A phone call will not protect you; your written response, including the above case number and named Parties must be filed if you want the Court to hear your case. If you do not file your response on time, you may lose the case, and your wages, money and property may thereafter be taken without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you [illegible] call an attorney referral service or legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the Court, you

must also mail or take a carbon copy or photocopy of your written response to the:Petitioners attorneys, named as follows: Tangel-Rodriguez & Associates, 222 Weber Street, Orlando, Florida 32803, Phone: (407)843-8363. **WARNING:**

Rule 12.285, Florida Family Law Rules of Procedure, requires certain automatic disclosure of documents and information. Failure to comply can result in sanctions, including dismissal or striking of pleadings.

THE STATE OF FLORIDA: TO EACH SHERIFF OF THE STATE: You are commanded to serve this Summons and a copy of the complaint in this lawsuit on the above named defendant(s).

DATED ON: 6-27-02

425 N. Orange Avenue, Room 320

LYDIA GARDNER
CLERK OF THE CIRCUIT & COUNTY COURT

Orlando, Orange County, FL 32801

By: /s/ [Illegible]
DEPUTY CLERK

"In accordance with the Americans with Disabilities Act, persons with disabilities needing a special accommodation to participate in this proceeding should contact the individual or agency sending the notice at Court Administration, 425 N. Orange Avenue, Suite 2130, Orlando, FL 32801, phone: (407)836-2050, not later than 7 days prior to the proceeding. If hearing impaired, (TDD) 1-800-955-8771, or voice (V)1-800=955-8770, via Florida Relay Service.

IMPORTANT: SPANISH & FRENCH VERSIONS ON REVERSE SIDE OF SUMMONS.

EXHIBIT "6A"

ORANGE COUNTY **ARREST AFFIDAVIT**

Arresting Agency: OCSD Case No: DR-86-3511

Date/Time Booked: 12/8/00

Address Of Arrest: 425 N. Orange Ave., Orlando Florida

DEFENDANT:

DAVIS, CHARLIE

1934 S. OLD, APOPKA RD.

APOPKA, FLORIDA 32703

Driver's License # . . . . . .

CHARGES:

1. Contempt Of Court FSS: 901.110

NARRATIVE:

Capis issued 10/24/2000, purge amount set at $1000.00

Sworn to and subscribed before me, the undersigned authority, this 8th day of Dec. 2000.

* * *